PETITION FOR WRIT OF CERTIORARI

Supreme Court, U.S.
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Docket No: _____

United States Supreme Court

Glenn Henderson
Plaintiff

v.

Joe Hilberman, et al.
Defendants

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth District

Petition for Writ of Certiorari

Glenn Henderson, Plaintiff pro se
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Questions

1. Is it wrong and a violation of constitutional and legal rights to have a law or rule used on a person, when that person has not violated the law or rule?
2. Would questions about why a law that was not violated by a person but used on that person be insubstantial?
3. Is it wrong and a violation of constitutional and legal rights when a law or rule is used not as written?
4. Would questions about why a law used not as written be insubstantial?
5. Is it wrong and a violation of constitutional and legal rights when case law and precedent are not followed?
6. Would questions about why case law and precedents were not followed be insubstantial?
7. Can state immunity for statements in court papers and verbally in court be overruled when there is a constitutional issue?
8. Is it wrong and a violation of constitutional and legal rights when a person is banned from bringing a case dismissed without prejudice back to court, especially when the plaintiff did not request dismissal without prejudice?
9. Is it wrong and a violation of constitutional and legal rights for defendants to claim wrongdoing by a plaintiff for bringing multiple cases against the defendants, when the defendants never won a case on the merits?
10. Is it wrong and a violation of constitutional and legal rights when a judge as well as

defendants make written or verbal defaming statements about a defendant?

11. Is it wrong and a violation of constitutional and legal rights when a non-defendant gets a ruling against a plaintiff for himself or herself?
12. Do judges and justices have immunity from a court cases when they have advocated, enforced, acted in an administrative capacity and/or defamed?
13. Is it wrong and a violation of constitutional and legal rights when a plaintiff does not get a chance to appeal and file a brief?
14. Is it wrong and a violation of constitutional and legal rights when a plaintiff does not get a chance to appeal for an en banc rehearing when the three person panel denies the request by claiming the petition was a motion?
15. Is there a conflict of interest or an appearance of impropriety and unfairness when judges or justices dismiss claims against fellow judges and justices and fellow lawyers without explanation and without a chance to appeal?
16. Is it wrong when judges or justices dismiss claims against anyone without explanation and/or without disproving the plaintiff's claims?
17. Is CA Civil Code 391 unconstitutional?
18. Is district court local rule 83-8 unconstitutional by referring to CA Civil Code 391?
19. Is it okay or is it dangerous to the country and will the American public say it is okay for a lawyer to decide what is right and wrong and

to challenge laws or rulings all they want, but it is not okay for someone who is not a lawyer?

20. Is it wrong and a violation of constitutional and legal rights when law enforcement agencies do not allow one to file a complaint and to have complaints investigated when the agencies have done that for others?
21. Is it wrong and a violation of constitutional and legal rights if not allowed to appear by phone?
22. What are procedures for making citizen's arrests?
23. Is it wrong and a violation of constitutional and legal rights when a past employer continues to harass and retaliate long after an ex-employee's termination and when courts allow this?

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List of all Defendant Parties

Roger Boren, Schmid & Voiles, Patricia Collins, Joel Criton, Andrea Lynn Rice, Lorna Parnell, Los Angeles County, State of California, Los Angeles County District Attorney's Office, California Department of Justice, Peter Glick, Michael Stern, United States Government, Clinton & Clinton, ESIS, Culver City PD, Sony Pictures Entertainment, Eve Coddon, Holly Lake, James Zapp, Amy Dow, Paul, Hastings, Janofsky, & Walker, LLC, John Roberts, Anthony Kennedy, Stephen Breyer, Antonin Scalia, Clarence Thomas, Ruth Ginsburg, Samuel Alito, John Paul Stevens, David Souter, Ronald George, Carlos Moreno, Joyce Kennard, Kathryn Werdegar, Ming Chin, Marvin Baxter, Carol Corrigan, Linda Lefkowitz, LAPD, US DOJ, Audrey Collins, Dean Pregerson, Terry Frideman, Judicial Council and head of the Judicial Council and administrator of 391 list, Jerry Brown, Michael Mukasey

Citations

The second district court dismissed and signed what the defendants gave him, except for security. He used local rule 83-8, but I had not lost a case on the merits to the defendants who wanted it used. He claimed I did not show up or respond most of the time in my cases, which the defendants falsely claimed.

Basis for Jurisdiction

Date appeal affirmed: November 16, 2009
Date of order related to rehearing: January 26, 2010
This Court has jurisdiction because the case was reviewed by the Federal Ninth Circuit Court of Appeals.

Statutory Provision: Petition for Writ of Certiorari may be filed after review by a federal court of appeals.

Constitutional Provisions and Statutes

The Constitution grants equal protection under the Fourteenth Amendment.
The Constitution grants due process under the Fifth and Fourteenth Amendments.
California Civil Code Section 391, 1689, 1667, 1668, 1670.5, 1565-1589, 1549-1550, 1565-1581, 1688-9, 43, 3525.
Civil Rights Act of 1964.
FRCP 11
Americans with Disabilities Act
FEHA
Title II, VII, IX
Local Rule 83.8
U.S.C. 42 Section 1983

Statement of the Case and Points

This case is mainly about challenging that CA Code of Civil Procedure Section 391 is unconstitutional and was not used as written on me and was not used according to case law. I had not violated it. Some defendants and all lawyer defendants, who got the law used on me, had violated it.

The appeals panel was clearly wrong that the questions were insubstantial. They were claiming questions about proven violations of the Constitution were insubstantial. I find it very hard to believe they had time to review the case. My original complaint was 214 pages. Defendant Glick filed over 3,000 pages. It was so obvious there were questions and

obvious mistakes and wrongs that I could hardly believe an order to show cause for getting an appeal. I started thinking the order must be about not getting an amended summons. The document I appealed from denied my request for an amended summons. That document was my first notice that the case was closed. Two defendants had not responded. In 8 days (6 business days), at most, 1-3 judges reviewed 4,000 pages, maybe consulted with each other, and made the conclusion. I find that very, very hard to believe. The record showed this case and all my cases had merit. I never had a chance to order transcripts in this case. Without transcripts, the whole record could not be reviewed. District court Judge Wright did not bother stating why he was ruling against my points. He had worked for two defendants and should have recused himself. The page limit for the petition for rehearing was not due process because I could not file a brief. I had 21 days instead of 5 months to present my case. Only Sony's lawyers responded to my response to the order to show cause. Sony's ex-lawyers had said if I did not respond, then I was conceding. If so, then those who did not respond were conceding my points. The appeals panel referred to *U.S. v. Hooton* as the standard about summarily affirming. Summary affirmation was used in that case after briefing by the appellant and a defense motion.

The appeals court panel said my petitions for panel rehearing and rehearing en banc were construed as a motion to reconsider en banc the panel's November 16, 2009 order and so construed, the motion for reconsideration en banc is denied on behalf of the court. That is ludicrous and corrupt. I clearly have the right to petition for a rehearing en

banc and for a panel rehearing about any judgment or proceeding. I did not file a motion and nowhere on my petition did it say motion; it said petition. They show they want to prevent an en banc vote; such a vote was done in the *Moloski* case about an order or finding similar to the order Wright issued on me.

The events that led to my filing court complaints were as follows. I was wrongfully punished and terminated at Sony. Sony fraudulently got me to sign an unfair settlement. Sony illegally threatened and harassed me about free speech and continued to retaliate after my termination. My union would not adequately help me; my rep lied and committed perjury in court papers. The EEOC did not adequately help me and helped scare me into taking an unfair settlement. I was denied workers' comp and defamed by doctors who did not look at all the evidence and because of Sony's fraud. While getting medical records, I found a psychologist had made up defaming claims about me. The LA DA's office, the USDOJ, CADOJ, and Culver City PD, would not help me with my Sony and related problems. The LAPD would not help me with other problems. I found I got PTSD, anxiety disorder, and depression when I was a child because of a doctor. Sony, their lawyers, and judges took away my constitutional rights and civil rights and lied and/or committed perjury. The only issue at Sony I am not sure about was that I complained to a bank in a letter to the CEO; I thought I could and still think so.

I am challenging CA 391 and its use. I am also fighting that I was defamed in court and want to bring claims that were dismissed without prejudice. I am trying to show I had not had 5 cases adversely and finally determined against me when 391 was

used against me and had not violated any of 391. I want declaratory and injunctive relief from many defendants to show most cases were not adverse and that all had merit and to keep the cases from being used against me and to show the defense used untrue arguments. CA Civil Code 533 allows me to challenge the 391 order. That is in *Luckett. Kimes V. Stone* allows overturning CA section 47 privilege for court papers if a constitutional right is involved. Federal Section 1983 applies. A judge or justice, who uses a law not as written, has an agenda. Judges are not supposed to have agendas. A judge or justice, who uses CA 391 or federal local rule 83-8, is advocating. A judge who uses those laws is especially advocating and especially has an agenda when the person the laws are used on has not violated them. Not allowing re-filing of cases dismissed without prejudice is advocating and is someone with an agenda.

There were 21 cases. It may seem like a lot, at least at first, but there is a good reason: a lot of wrong was done by the defendants. This is case 21. 6 were because I thought I had to file in state and federal court because there were state and federal claims, or there would have been 15. 2 were about trying to get off the blacklist and 2 were about addressing wrongs related to court or there would have been 11. 3 were about other Sony wrongdoing after my termination, or there would have been 8. A service issue occurred with the EEOC, or there would have been 7. That left 7 original defendants or defendant groups: Sony, the union, the EEOC, the LA DA's office (and, in this case, other law enforcement or people in courts), a workers' comp doctor (another and insurance carrier in a later case with Sony), a psychologist, and another doctor (and

hospital).

Defendants Schmid & Voiles, P. Collins. I discussed the arguments because they were made by S&V. The arguments led to the case being incorrectly dismissed by the judge, which violated my rights, like due process and helped lead to my being wrongly blacklisted under 391. S&V made untrue arguments. That is my complaint with them. There was a federal and a state case. The federal case was dismissed for lack of jurisdiction and not with prejudice. There was a discrimination issue that could have stayed. The state case was dismissed with prejudice but should not have been. Immunity for a workers' compensation report was the reason for dismissal. The case was not only about the report. Dr Seltzer refused to look at all my evidence. She tried to help me, and I was her patient, so malpractice applied. She mailed me a copy of her report. I did not ask for it. She stated that anyone who showed it to me would have responsibility for the patient's reactions. She was saying she had a duty to me, had no immunity, and I was her patient. She implied she was my doctor. Wright said she was my doctor. She behaved unprofessionally by yawning audibly and sounding angry at me. She defamed me in her report. She said I was a poor performer yet said my discrimination claim was beyond the scope of her report. So, she was saying she could not say Sony's claim that I was a poor performer was not discrimination and so was not true, but said I was a poor performer anyway. Not taking my complaints of discrimination seriously was discrimination and retaliation. I went to her for my benefit. She claimed that I had poor communication skills but gave no example or evidence, like Sony did. She made recommendations

to me. She must have sent the report for my benefit. She did not solely rate an injury. She was doing it at my request. I relied on her examination and report or I would not have shown up or asked her to examine me. I relied on her comments for help. My appeal was not heard because of a time issue. I received an order and not an entry of judgment. Not receiving an entry of judgment document allows more time to file an appeal. *Keene v. Wiggins* supports me about malpractice and other issues. Judge Collins asked if I bothered to look at the rules (about procedure). I said I guess not. I did not know about them.

Defendants Wright Institute Lawyers Joel Criton and Andrea Lynn Rice, Parnell. My complaint is the defense and judge made incorrect arguments. This state case was about more than a report. Wright did not do enough to supervise and train Dr. Stevenson. Supervising was discussed by the appeals court. She was a trainee, so immunity did not apply to her. I stated Wright should have known something was wrong with her comments about me. She made up defaming and humiliating things about me. Judge Parnell told me I had asked for a diagnosis and gotten one. Actually, I did not ask for a diagnosis. I asked for help on being more assertive and confident in a job search. I asked for dismissal of claims against Stevenson after claims against Wright were dismissed and affirmed on appeal because I did not want her to have to pay for an attorney.

Defendants LA County and DA's Office, CADOJ, Glick, Stern. The defendants, except Stern, allowed Sony to threaten me with a restraining order and possible wrongful prosecution after I sent free speech emails. Glick harassed and threatened me. He got illegal 391 used on me; I had not violated it. The case

was not decided on the merits; I was required to pay $10,000.00 to get that. Stern said he had to do what Hilberman did. That is not a neutral adjudicator. He said he could not make a decision about the merits because I did not pay. Not taking my complaints of discrimination and retaliation seriously was discrimination and retaliation. Glick absurdly said my case with the DA's Office was a continuation of lawsuits against Sony. The 14th amendment, including equal protection and due process, the 8th Amendment, CA Civil Code 43, and federal section 1983 support me. The CADOJ never responded. DA Cooley promised to go after judicial wrongdoers. He did not keep his word in my situation. I did not get equal protection and due process. He and/or his office instead decided to help with judicial wrongdoing and to help with and participate in wrongdoing by lawyers and defendants. Since I filed this current case, I have emailed the LADA's office about the problems I reported to the LAPD but have gotten no response.

Defendants U.S. Government, EEOC. I can bring this to court now because it is re-filing of a case dismissed without prejudice. I had previously filed two federal cases and one state case. The first federal case was dismissed with prejudice for not having the defendant's name right and not doing administrative remedy. I did the administrative remedy. It should have been dismissed without prejudice, like similar cases. The second was dismissed without prejudice. I served but did not put Civil Process clerk on the service. I tried a second service, but the court said it was too late. A state case was combined with a federal case. The EEOC's not taking my complaints of discrimination and retaliation seriously was

discrimination and retaliation. They put undue pressure on me to take a settlement with Sony, even though they had not met with me to discuss and look at all my evidence and, evidently, had not talked with my witnesses.

Defendants Law firm of Clinton & Clinton, ESIS. Their court paper with Judge Hilberman (in a case with Sony) was fraudulent and defaming. Their arguments were false. They denied everything and stated I unreasonably delayed bringing the action. They said I waived my right to recover and my own conduct estopped me. They said I failed to mitigate my damages. They said I failed to exercise that quality and care which a reasonable individual would have. I tried my best to stop the damage and protect myself. I did my job way above expectations. Then they claimed if any injuries or damages occurred not solely caused by me, then they were caused by other parties. None was caused by me. The only issue I am not sure was okay for me was my bank letter. ESIS did not do a good job of investigating or supervising and training employees. The workers' comp doctors did not look at all my evidence; one refused my request. The defendants said I knew of the risks and exposed myself to them. I needed to work. I was not supposed to have to quit because of wrongdoing by others. I do not understand their claim that I was not in privity of contract. They were Sony's workers' comp insurance carrier; I was a Sony employee, and they interviewed me. I filled out a claim form. They said injuries and damages, if any, were caused by others; I like that except the, "if any" conditional. There were injuries. I did not have unclean hands. There was fraud. RICO and *Kimes* support me. Section 1983 supports me; they did this in state

court. They filed a motion to use 391. The defendants refused to respond to service in this case. I should get default judgment. I should get fees for a process server because they did not respond to a request for waiver of service.

Defendants LAPD, Culver City PD. I complained to the LAPD about problems I was having with people harassing me, threatening me, assaulting me, or committing simple battery like pushing or shoving. I complained to the CCPD about Sony. I did not get equal treatment because some people got their complaints investigated or got to file a complaint. I did not get the equal protection of the LAPD's "broken window" policy of going after small crimes. I did not get due process. Section 1983 and CA section 43 support me. Refusing me twice is not a single incident; the CCPD's lawyers said the *Monell* case says one incident is not sufficient to impose liability

In *DeShaney v. Winnebago*, the U.S. Supreme Court talked about limiting the freedom to act on one's own behalf. That has been done by the courts, and the USDOJ, CADOJ, LADA's office, LAPD, CCPD and others. They allowed Sony, the union, the courts, and/or the EEOC to do it. My sources of aid were cut off and the government would not help me. That is in *Estelle v. Gamble* and *Youngberg v. Romeo*. Judge Pregerson ruled my union did not have to help me after August 2002. I had a deprivation of liberty because there was not another option besides going to law enforcement about crimes against me. The USDOJ can be responsible under CA tort law. *DeShaney* was about due process and not equal protection. I did not get the due process of talking with someone. In *Botello*, the court stated investigators only have qualified immunity.

Prosecutors do not have immunity if they are advising investigators. The court also ruled there is limited immunity for communication about nonprosecution policy. Investigating is not a judicial function. Prosecutors involved in investigating are not doing a judicial duty. The *Botello* court seems to be saying there must be a reasonable investigation before a decision to prosecute or not can be made. The *Roe v. City and County of San Francisco* court said prosecutors do not have absolute immunity for investigative matters, immunity did not prevent injunctive relief, and as a general principle, separation of powers proscribes an order to prosecute. It seems maybe an order to investigate can be made.

I have shown above that the four elements (CCPD's lawyers claimed) for a Section 1983 claim. (1) I possessed constitutional rights of which I was deprived, e.g. equal protection and due process. (2) The city turned my requests down twice. That is a custom, practice or policy. It was a pattern. They helped Sony many times. (3) The city's custom, practice or policy "amounts to deliberate indifference" to my constitutional rights. The inaction was indifference and was deliberate because they knew about my complaints from my attempts at contact. Someone at the PD or city knew or should have known about the rights to equal protection and due process. (4) The custom, practice or policy was "the moving force behind the constitutional violation." Their custom, policy or practice and pattern of not investigating my complaints were why I did not get my constitutional rights. They did not help me and helped Sony many times and demonstrated a "widespread practice" "so permanent

and well-settled to constitute a 'custom or usage' with the force of law."

Defendant A. Collins, Pregerson, Friedman. They made incorrect decisions and denied my right to due process. Judge Collins advocated sanctions for me, but I had done no wrong. She had made mistakes. She did not know or state former employers could not retaliate; she let Sony's lawyers get away with that claim. She evidently did not do research. Judge Pregerson threatened me with possible future sanctions if I did not research or was untruthful with facts although I had done no wrong. I was never untruthful. I may not have known how to research everything. He had made mistakes. He mistakenly ruled my 2004 case involved issues from my 2003 case; Sony's lawyers claimed that. He also dismissed a defendant in the 2004 case, who was not even a defendant, but had been in the 2003 case. He mostly seemed like he was trying to do right. It seems wrong if Pregerson or Collins realized when I filed my appeals that they had made mistakes. Collins said my 1st Amendment rights would not be taken away; they were. Federal section 1983 applied to Sony because the LA DA's office was involved and Sony's lawyers were officers of the court. *Winarto v. Toshiba* supports me. CA section 43 applied. Collins said my 2002 settled case had not been litigated, determined, or decided because it was voluntarily dismissed. That means it cannot be used under illegal 391. She said that case's dismissal was on the merits.

Pregerson and Collins gave me advice about research. Collins could have looked at the emails at issue or let me amend my complaint to include copies. She said she could only rule on what was before her. I think she said I did not object to

transfer of a case from state to federal court. I did in writing. I could not appeal her case to the U.S. Supreme Court because the appeals court did not notify me in time about its decision. In a case ruled on by Collins about childhood harm and abuse at a hospital, I did not get equal protection because the statute of limitations was lifted for many similar cases but not for mine. I appealed and petitioned the U.S. Supreme Court.

Friedman dismissed without prejudice about service. The time to serve had not passed. He would not let me correct defendants' names. He would not let me serve by publication; he had mentioned it to me and had also discussed it with others in another case. Sony had stopped the Sheriff's Department from serving. Defendants had not responded to service by mail; Sony may have advised them. Sony attempted to delay and cause more cost. They have done that in this case.

Defendants Sony, Hilberman, Boren, Coddon, Lake, Zapp, Dow, Paul, Hastings, Janofsky, & Walker, U.S. Supreme Court, CA Supreme Court, State of CA, Lefkowitz, USDOJ, CADOJ, U.S. Government.

This is mainly about being put on the unconstitutional CA Code of Civil Procedure Section 391 list, even though I had not violated 391. I am challenging the law as unconstitutional and that it was used on me when I had not violated it. It was not used as written. This is also about the courts denying my rights and not adjudicating my cases properly, legally, and with due process. This is about lawyers and judges and other defendants taking away and conspiring to take away my constitutional rights, civil rights, and other rights. This is about defaming and untrue statements made about me in court and

court papers by lawyers and judges. Sony lied over and over. Judges allowed it and added to it. Wright and appeals judges Wardlaw, Fisher, and Borzen have joined in.

I did not get most of my points addressed. Wright and the appeals panel responded to none. The same was true of judges when I was put on the 391 blacklist. That is not due process. The U.S. Supreme Court has denied my constitutional right to appeal to it. The right to appeal may apply to the CA Supreme Court by the 14th Amendment. Congress can make exceptions but making everything an exception violates that idea. The U.S. Supreme Court should follow equal protection like the lower courts.

The claimed intent of 391is to stop frivolous lawsuits. If that were meant, 391 would mention them but does not and lawyers and all people would be affected. Even if a case has merit, a judge can say the pro se will probably lose and charge security. If on the list, the only way to have to pay security is to have a case with merit. Lawyers can lose all they want even though they have law degrees.

I am being told anyone can do anything to me, and I cannot get justice or even due process. I have the right to argue for repeal of an old law, for a new law, or for change in a law. I am doing that, but law already supports me except immunity for doctors' reports. Congress and states are constantly adding new laws showing new needs for laws keep arising. Stopping reasonable arguments is stopping new ideas; new ideas are a main reason for free speech. Sony said I was "innovative" so agreed I made non-frivolous arguments. Laws already supported me. Conflict of interest exists for judges, who are lawyers, to rule against judges or lawyers. Judges

may have been biased for a movie studio. Not taking my complaints of discrimination and retaliation seriously was discrimination and retaliation.

The Constitution supports the idea judges acting in bad behavior have no jurisdiction. The judges in my cases have acted during bad behavior or not good behavior. Some have made honest mistakes; many have been corrupt. The ones who made honest mistakes seemed to not do research or just believed the lawyers. The last claim at Sony was that I went on jury duty for too long. Sony and judges have allowed all this harm to me because I went on jury duty. Making false accusations, lying, legislating from the bench, applying laws wrongly, and violating constitutional rights are not functions normally performed by a judge. Immunity applies if it is a judicial act and not a violation of constitutional and civil rights. Section 1983 shows that.

The word vexatious in 391 and 83-8 is a derogatory word used to claim wrongdoing. That opens one up to contempt and scorn. It stigmatizes. It does not say one lost cases with merit or was not a good lawyer or the defense lied. Just stating a case, having a day in court, means the case is not totally adverse. With the hundreds of laws on the books, it is likely everyone has many reasons to go to court over their lives. That is a reason people have lawyers. Many issues can be small claims. One can go to small claims court unlimited times. Bigger claims can happen a lot, too, like 5 times in 7 years. Litigiousness is not wrong and can be or is good if laws were broken. People need to have confidence in the integrity of the courts. People need to know wrongdoers can be stopped or at least fought in the courts. Crime would probably be less if people could

and were encouraged to take differences to court.

Res judicata and collateral estoppel do not apply in this case or my other cases. I did not try to relitigate. Also, I did not get a full and fair attempt at litigation. I will continue fighting that until I do. The law allows that. I did not get neutral adjudicators; I was not in the lawyer profession, and 391 was used and wrongly used on me, which created bias.

I was put on the 391 list, but I only had three cases dismissed with prejudice: one was because I had the wrong name for a defendant and had to do administrative remedy but could re-file, one was about the statute of limitations, and a mistake was made by the court, and one was about immunity for doctors' reports, and the court made a mistake because immunity did not apply to the whole case. Lawyers' losing 5 cases has the same effect or more on court and defendants' costs as pro se cases. It does not cost to pre-file but does to file. It takes as much time to read a pre-file complaint as to read a filed complaint, or should. If a plaintiff files a frivolous and bad faith complaint, the defendants should get attorney fees and sanctions, and the court should get sanctions. That is already the law. Losing a case is not necessarily bad, is usually good, and is rarely bad unless lies are told; it is an attempt to stop wrongdoing. It can stir debate over what is right and wrong. Precedents have come from dismissed cases. New laws have come from lost cases. It costs money to maintain and administer the list. A problem with pre-filing is that sometimes lawyers bring up cases or laws or arguments that a pro se or maybe judge may not know about, so a pro se cannot respond.

Justice John Paul Stevens, talking about a similar

list in this court, understands the problems or wrongs being on a list can cause.

Judge Hilberman made the absurd claim that my cases appeared to be about the same events and also wrongly claimed I had at least 5 final and adverse determinations. Even also-corrupt Wright stated the cases were "essentially growing out of and relating to the termination." That is a little better but still not the truth. For example, the LAPD and doctor and hospital cases were not related to my termination. The first case with Sony was not about termination. "Growing out of" is not the same as same events. Retaliation growing out of termination is illegal. Hilberman would not let me speak to respond to Sony's lawyer. He encouraged, so advised and advocated, that another lawyer use 391on me. He conspired. Hilberman claimed he fully considered the papers, evidence, and argument. That is an absolute lie. He refused to look at a lot of my evidence. Sony lied and said a 1st Amendment issue had been resolved in a federal case. I never got a chance for an actual hearing on 391. Judge Lefkowitz absurdly said filing a defamation complaint against the LA DA's office was wrong because the case was similar (but a different event) to a previous case. She got angry and walked off while I questioned the constitutionality of 391. She said she did not wish to discuss it with me anymore; that is not due process. She did not act with dignity or control. She was maybe frustrated she could not answer well. She said lawyers were excluded because they could get sanctions and have a code. All can be sanctioned. All have a code to not lie in court. Lawyers are taught to mislead. The CA Supreme Court gave an order to prevent someone from talking about a restaurant. They said the

alternative would be to keep filing defamation lawsuits against her. They agreed many cases can be okay and that what I was doing was right and even necessary to stop defamation. At a hearing, I would have to show evidence and reveal strategy, a violation of due process. According to documented dates, state Appeals Justice Boren denied my petition for rehearing a day after it was filed; that is hardly time to review it.

Written laws support me, so this country has agreed these things are worth going to court over and are for the public good. Law may say courts can choose the way they give access, but it must be constitutional. Court is the place where one can properly show that a law has been broken and get justice. Money should not be a factor. 391 allows the court to say one is too stupid to bring a case. Being stupid is immutable. The 391 label prejudices or probably prejudices judges.

I read some in Congress and others have wanted punishment for lawyers who bring frivolous cases and lawyers have fought it. Lawyers say they cannot make new and unique arguments. They do not want pro se's to. That is the scariest part of 391and 83-8. They allow a small group, lawyers, to decide what is right and wrong and what laws should be made or changed. They can do it by making claims not supported by law and by filing frivolous and meritless cases all they want. Pro se's cannot do that and can be stopped from filing non-frivolous cases with merit. I read that Anthony Kennedy said in L.A. in February 2010 it was "important to have robust, principled debate after opinions" and suggested that was best left to the legal community. If he said that, then he is stating lawyers should say what is right

and wrong and good and bad and not the general public. That is absurd and incredibly scary. There is a monopoly or oligarchy for lawyers and for judges. Anyone who cannot exercise a right and acted in good faith and done no wrong loses autonomy.

391 is vague and broad. It does not stop frivolous lawsuits, the only ones not protected by the Constitution, but punishes a broader range of activity that is mostly legal and constitutional. One must pre-file but the statute of limitations can pass before a case is actually filed. State courts have gone in a roundabout way to uphold the law. Federal courts have agreed with state courts and added other nonsense, like state courts can say how they give access that way. If a law cannot be understood by the public, it is vague.

Boren said I did not show that my case had merit or was not for harassment or delay. I and laws clearly showed it had merit. He was claiming I did not prove what I was thinking about harassing or delaying and I was guilty until I proved I was innocent. He falsely accused me of the crime of not requesting approval to file before and after I showed my letter doing so and a postmarked envelope. He defamed and absurdly said the pre-filing order was duly issued. Judges and lawyers violated their oaths.

Pregerson did not want to grant sanctions against me in the 2004 Sony case (even with his mistakes) for my arguable point, to not chill zealous advocacy, and because of my pro se status. State and now federal courts have decided to do the opposite and disrespect Pregerson. Sony did not ask for monetary sanctions in state court; they acknowledged I had done no wrong. Collins denied their trick of claiming a 2003 case was the same as a 2002 case. Sony tried

the same thing with Hilberman and disrespected Collins. Collins said I could take some issues back to state court. Hilberman did not respect Collins. Sony and judges lied. No one needs to lie if their arguments have merit.

The right to petition does not mean one has to be told yes. I have a right to a jury trial under the CA Constitution. Corrupt defendants have caused stress and caused it in committing crimes. Stress can cause death. So, they have attempted murder, and assaulted and committed battery, at least in effect. Causing death during a crime is murder. Denying medical treatment and related fraud are prohibited by federal law.

Defendants can get security for a lawyer under 391. CA has a new law to assist people in getting an attorney to file important cases if they cannot afford or get an attorney. CA recognizes the problems of pro se's' getting justice. Statistics used showed how hard it is for pro se's to win. CA used the statistics and would not have used them in making the law if they had thought pro se's were dishonest and abusers. The new law contradicts the claimed need for 391. 391 discriminates against people who are not good at talking a lawyer into helping them. Some people have social anxiety or other conditions. I do. Being blacklisted is supposed to be on the ground, yet the law says nothing is to be taken about merit. The opposition is supposed to show a case cannot be won. A case with merit should and will be won unless defendants or lawyers' lie. Judges have shown a reckless disregard for the truth. I read that amendments to 391 were made because a pro se lawyer tried to stop judicial corruption. The legislature, courts, and lawyers went after him as a

pro se and not as a lawyer. That is suspicious and not good for public confidence.

Higher courts and presiding judges did not supervise and train properly. Law firms, Sony, and government agencies did not. State court twice kept my money for records but I never got the service. That is theft and fraud. Some settlements are approved by a judge; mine was not.

Sony and Glick have not prevailed on merit in any case with me, yet got 391 and 83-8 used on me. I am being punished because the defendant lawyers could not win against me, even though they lied and tricked judges and got some issues dismissed without prejudice. They wrongfully complained I should not bring back claims dismissed without prejudice. Judges could not support many arguments and often did not try. No judge was able to show I violated 391 or 83-8. None tried. They could not show it because I had not violated the laws or rules. Clinton & Clinton tried to use 391, but I settled with their client, ESIS. Sony's attorneys, Rosen and Carrasco, got 83-8 used for them without being defendants. They violated it. I did not. Sony's ex-lawyers and other defendant lawyers have violated 391 and 83-8 in this case and other cases. There was conspiracy. There was malicious prosecution. Rosen stated the courts have typically dismissed my claims without prejudice. He shows I have done no wrong, and he and others have. I never asked for those dismissals.

My union cases should not have been dismissed at all. There was a statute of limitations issue in the federal case. I showed it had not passed. Pregerson did not say I should have known the union did something wrong. He wrongly stated the statute of limitations began when I knew the union would not

help me. He had previously stated the rule correctly. Some issues in that case were dismissed without prejudice. The state case was dismissed about jurisdiction but was dismissed with prejudice. A jurisdiction issue is supposed to be dismissed without prejudice. Also, there was state fraud and breach of contract because of a letter; the CBA did not have to be reviewed. A second state case was dismissed with prejudice because of CA section 47 immunity. *Kimes* overruled that. Issues of the union obtaining the confidential Sony settlement from me and the right to privacy were not ruled on. RICO applied. The *Kimes* idea is also in *Pardi v. Kaiser*. The federal court applied the same idea to Americans with Disabilities Act (ADA) claims. *Steffes v. Stepan Co.* had the same decision about Title VII and ADA claims.

FEHA and CA Government Code section 12940 prohibit retaliation by a person and employer. 391 discriminates in ways prohibited by the Civil Rights Act of 1964 and related laws. 391 does not take into account mistakes or lies by judges, lawyers, and defendants. It is arbitrary. It makes a limit of 5 cases and is applied to only some people.

Section 391 is unconstitutional. It violates the 14th Amendment right to equal protection. It does not even pass the unconstitutional ideas courts use to determine equal protection, such as rational basis or strict scrutiny. Having levels of scrutiny means some cases do not have to be looked at, scrutinized, as closely as others. It absurdly violates the idea of equal protection and is not due process. CA Unruh agrees about equality. Unless defined, statutory terms are generally interpreted in accordance with their ordinary meaning. "Any person" in the 14th

Amendment means just that. The 14th Amendment means there is no rational basis or any basis to treat people differently under the law. 391 is overbroad. It violates the 5th Amendment right to due process. It is a deprivation of a right and taking of property. It violates the 1st Amendment rights to petition and free speech. It excludes blameworthiness. It is irrational that a lawyer is less likely to file a groundless case. Justice should not be for sale. 391 is censorship. It is prior restraint. It circumvents criminal procedural protections of barratry. It violates the 8th Amendment. The punishment of a lifetime loss of a fundamental constitutional right is not proportionate to losing 5 cases in 7 years. One can be punished for no wrongdoing. 391 holds pro se filings to standards of attorneys, and that violates due process. It does not describe how to pre-file or seek permission to file. It is a Bill of Attainder. *Regents* says one has the right to clear one's name if the government is involved. I found many of these ideas from an article. 391 tries to circumvent privilege in court papers by saying it does not matter what was said but only that one lost. Only 3 other states have a similar law. 46 evidently do not like it. The Constitution states it is to establish justice, promote general welfare, and form a more perfect union. That did not happen in my cases.

It is not okay for my supervisor and others at Sony to defame and harass me, to have my free speech rights taken away, to fraudulently get me to sign a settlement, to prevent my getting medical treatment, for my union to not help me and to lie to me and about me, for my union rep, doctors, and the EEOC to claim I was a poor performer without looking at my evidence or talking with witnesses or

me or giving a truthful or reasonable or logical argument, for the police and DA's office, CADOJ, and UDOJ to allow the criminal defendants to get away with crimes, for a doctor and a psychologist to make up defaming stories about me, that a doctor's wrong behavior when I was a child caused me PTSD, anxiety disorder, and depression, for people to get away with these things, and that I am being called the bad one. It is not frivolous or harassment to fight this.

I read or heard that 90% of all cases do not go to trial, so according to Sony and judges using 391 on me, 90% of all cases are adversely determined. Not allowing a case with merit to proceed or even be filed is abuse of the judicial system. Allowing someone to not be able to protect himself or herself from any harm and to have no recourse in the courts or through law enforcement is cruel and unusual punishment. Papers by lawyers who lie should not be privileged; they are not doing their jobs as lawyers. Absolute privilege may be "lost if abused" is from *Halperin v Salvan*. The way courts twist things around is so ludicrous that they must have agendas. Sony failed the first of three times to get me blacklisted but then judges helped. They have put me in jeopardy three times for the same issue.

Wright defamed me in the dismissal. He simply signed what Sony's lawyers wanted. They claimed most of the time I did not show up at hearings or respond in my cases. The record clearly proves that is not true. Sony and Wright acted in bad faith. I told the court I could not make the 2600 mile trip to a couple of hearings in this case. I do not have a job and cannot find one. I am afraid to leave my house and be in my house. I wrote written responses.

Wright did not allow appearances by phone, which I would have done, so I did not get due process or equal protection. Sony and their ex-lawyers did not respond to my request for waiver of service, so I should get process server fees I paid.

In *Wolfe v. George*, a case about CA 391, Wolfe got his appeal reviewed in federal court and got pro bono lawyer help given by the 9th Circuit. He had been taken off the blacklist. In the *Moloski* case, Moloski got a chance to appeal an order similar to mine. He had filed about 400 cases about disability access. All should get equal treatment.

83-8 applies to all litigants but refers to CA 391, so that part is unconstitutional. At first they show all should be treated equally but then say pro se's can be treated worse. Pro se's are so disliked that corporations cannot go to court in pro se. As used on me, 83-8 is narrow and applies to specific attempts at litigation. 391 is broad and applies to all attempted litigation. Wright did not refer to the part of 83-8 that refers to CA 391.

At Sony, I applied checks. I was told my 99.98% rate of accuracy (out of 34,000 checks) and never getting behind because of me was unacceptable. In the middle of my trouble at Sony, I wrote a letter to a bank CEO about harassment; that is the only issue I am not sure was okay for me. I am seeking declaratory relief about that

There is not judicial immunity for advocating, administration duties, enforcing, and defaming. I have found references to *Grant v. Johnson* and *Wolfe v. Strankman* about this. Putting me on the 391 list and upholding it (and now the 83-8 order) were enforcing. Under federal tort law, judges do not have immunity for acts that violate litigants' civil rights.

My civil rights were violated. In *King v. Love*, judicial immunity did not apply for a deliberate false statement about a warrant. In *Pulliam v. Allen*, the defendant was required to post bail or bond when he had not committed an offense punishable by jail. There was no judicial immunity. Similarly, I was required to post security for no offense. The U.S. Supreme Court said judicial immunity does not protect state court judges from prospective injunctive relief in civil rights actions. In *New Alaska Development Corp. v. Guetschow*, there was not absolute immunity for slander. *In Morrison v. Lipscomb*, the court said a civil contempt proceeding may subject a judge to liability. Boren falsely accused me of not following pre-filing orders; not pre-filing is punishable as contempt. The U.S. Supreme Court upheld Boren. I was discriminated against on the basis of medical condition and disability and on the basis of serving on jury duty in state court.

I have a special relationship with the federal and state governments because I was terminated for taking jury duty that Sony said was too long. There was a special relationship because the federal and state governments are supposed to prevent discrimination. The EEOC was set up for that. The U.S. Supreme Court did not do its duty of supervising the lower courts; that is an administrative duty and task. Not supervising is advocating taking away my and others' rights and not following the law.

They talked about expectations in *Imbler v. Pachtma*. I did not expect the judges to use section 391 against me, get my cases wrong, not respond to my points, or not discuss their reasons to dismiss issues. I did not expect wrongdoing. I did not expect

to be denied a fair and full chance at litigation. I did not expect my constitutional rights to be taken away. I did not expect dishonest or incompetent judges and justices.

A federal court ruled in *Guerrero v. LAPD* that the LAPD could be liable under RICO. The *Luckett* court said a genuinely meritorious lawsuit will not be subject to an order to post security and will have no problem obtaining a presiding judge's permission. That has not happened with me. They ruled Luckett could get off the list if he did not file cases for 4 years. That is good but does not help clear a person's name if they had not violated the unconstitutional statute. That court showed they believed a lifetime on the list was too severe. Lefkowitz ordered me to post security, so that is supposed to mean my case had merit.

Privilege does not apply to the defendants' court papers because fraud, lying, and false statements do not achieve the object of litigation. The *Silberg* case does not say anything about just wanting a ruling that a case had merit. They say the privilege is to prevent harassment by derivative tort actions. No one is being harassed because this is for a legitimate purpose. The justice system is for ensuring free access to the courts, promoting complete and truthful testimony, encouraging zealous advocacy, which is exactly what I am doing and fighting for and what are being denied me.

I discussed in the CCPD section the four elements the CCPD's lawyers say are necessary for a Section 1983. That would apply to 1983 in this section about these defendants and in the whole case.

I am fighting the absurd idea that Glick, De Rosa, McGolgan, and Hilberman have claimed: that filing

against others is the same as re-filing with Sony. Rosen admits most issues are dismissed without prejudice, yet claims it is wrong of me to re-file. The CA Judicial Council is responsible for allowing the section 391 list, and the *Wolfe* case says they are appropriate defendants. Rooker-Feldman does not apply to a constitutional challenge. It does not apply to a claim a state statute is unconstitutional and was not applied as written. If a plaintiff asserts as a legal wrong an allegedly illegal act or omission by an adverse party, Rooker-Feldman does not apply. That is in *Wolfe v. Strankman*. The courts used illegal 391 not as written, i.e. illegally. They omitted giving me an actual hearing and omitted looking at and responding to my evidence. Boren and Lefkowitz were not ruling between two parties but deciding if I could file. I read that the 11th Amendment does not apply if a state violates its constitutional duties, like the 14th Amendment, and federal court has jurisdiction. Title IX says I can file a case in federal court if I cannot get a fair chance in state court. I need a place to file since I could not get a fair chance in state court and now federal court.

CA Civil Code Section 1708 says of abstaining from injury to a person or property of another or infringing upon any of his or her rights. Judges violated the CA Code of Judicial Ethics. They broke the CA oath to defend the United States Constitution and CA Constitution. I think there is a federal oath and/or code.

I proved the settlement I signed with Sony was illegal. There was not enough given for what was taken. Sony changed the settlement that I signed from the one I had been shown and thought I was going to sign. Sony lied to the courts and others. CA

Civil Code sections 1689, 1667, 1668, 1670.5, 1565-1581, 1549-1550, 1565-1589, 1688-89 show my points are right. The EEOC would not help me adequately because of Sony's lies. My union would not help me adequately and claimed they believed Sony. Sony had undue influence. They influenced the EEOC, my union, workers' comp doctors, and others with lies. They had lawyers and could afford the best. They had an unfair bargaining position. They took unfair advantage of my mental condition. I have PTSD, anxiety disorder, and depression. The first contract is still in effect because I did not violate it and both sides did not mutually agree to void it. If I could complain the bank and its CEO, then Sony committed fraud. That was a factor in my taking the settlement. About 4 years after I was terminated, Sony put my supervisor on probation, on a Development Plan, and threatened her with termination if she did not change. They documented what they knew all along: she was a problem. Sony has the FRCP Rule 11 duty to tell the truth about that. They should have to undo her harm.

Sony's ex-lawyers claimed I did not respond to a paper; I was never served. They claimed I did wrong. They never claimed they served. If non-response is conceding, then when they and others did not respond to some of my points, like CA section 43, and the appeal panel's order to show cause, they conceded to me. Glick was sent to ethics school by a federal judge. He has no credibility. He did not respond to that.

I have passed all the tests in *Safir v. United States Lines, Inc.* (1) A had a lot of litigation and none of it was vexatious or harassing. (2) I definitely had good faith intentions. I wanted to get a job and

get a career back and get amends and have free speech and get psychological and medical treatment. I definitely had a good faith expectation of prevailing. I referred to laws, showed wrong was done by every defendant, and that I was harmed. (3) I had no counsel. (4) I have not caused unnecessary expense to any parties. Their wrong behavior led to all expenses. I have paid court fees. The defendants have burdened the courts. If they had been honest or done their jobs, there would be no cases by me. (5) I do what courts say.

Glick said that in *Moy v. United States* an "injunction cannot issue merely upon a showing of litigiousness" and the "claims must not only be numerous, but also be patently without merit." None of my cases were close to patently without merit or close to without merit. Sanctions stop abuse of the courts by anyone. 391 and 83-8 are not supposed to preclude legitimate cases, but they do, as I have shown.

The intent of laws protecting police and other law enforcement from court cases is to protect them when they are busy. They use it as an excuse not to bother with some complaints; that violates the intent of the laws. CA Penal Code 422.93 prohibits retaliation against or punishing because of being a victim.

Only a court's going through all of my cases and all of my claims and showing the laws that say they are not actionable would have given due process. A court cannot show such laws because they do not exist. The only law a judge mentioned that could legally dismiss a claim was the immunity law for doctors' reports.

I did not get a full and fair opportunity to litigate this or any case.

Basis of Jurisdiction of First Court

The U.S. Court had jurisdiction because of federal questions and diversity of citizenship.

Argument for Review on a Writ of Certiorari

I did not get Fifth and Fourteenth Amendment rights to due process. I had my First Amendment right to petition taken away. The United States Constitution should be upheld. All should feel they can get a fair chance in court. The courts departed so far from procedures that this court should exercise its supervisory duties. I did not get my points addressed. I did not get a chance to appeal. My petitions for rehearing en banc and by panel were absurdly treated as a motion and denied by the panel. I never got a hearing in state or federal court when unconstitutional 391 and when 83-8 were used on me not as written. I did not get a hearing. The courts have made so many wrong rulings, mostly corruptly and probably some unintentionally, that this has become a pattern and not just a one time mistake.

Attorney of Record

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UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED
JAN 26 2010
MOLLY C. DWYER,
CLERK
U.S. COURT OF APPEALS

GLENN C. HENDERSON, No. 09-56173

Plaintiff-Appellant, DC No. 2:07-cv-07714-ODW-

v. Central District of California,

SONY PICTURES; et al. Los Angeles

Defendants-Appellees

ORDER

And

STATE OF CALIFORNIA; et al.

Defendants

Before: WARDLAW, FISHER, and BERZON, Circuit Judges

The petitions for panel rehearing and rehearing en banc are construed as a motion to reconsider en banc the court's November 16, 2009 order. So construed, the motion for reconsideration en banc is denied on behalf of the court. See 9th Cir. R. 27-10; 9th Cir. Gen. Ord. 6.11.

No further filings shall be accepted in this closed case.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

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Defendants-Appellees

ORDER

And

STATE OF CALIFORNIA; et al.

Defendants

Before: WARDLAW, FISHER, and BERZON, Circuit Judges

A review of the record and appellant's response to the July 31, 2009 order to show cause demonstrates that the questions raised in this appeal are so insubstantial as not to require further argument. See United States v. Hooton, 693 F.2d.857, 858 (9th Cir. 1982) (per curiam) (stating standard).

Accordingly, we summarily affirm the district court's judgment.

AFFIRMED

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
FILED
JUL 31 2009
MOLLY C. DWYER,
CLERK
U.S. COURT OF APPEALS

GLENN C. HENDERSON, No. 09-56173

Plaintiff-Appellant, DC No. 2:07-cv-07714-ODW-

v. Central District of California,

SONY PICTURES; LOS ANGELES COUNTY; LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE; PETER GLICK, PAUL HASTINGS JANOFSKY & WALKER LLP; MICHAEL B. MUKASEY, Attorney General, Los Angeles

Defendants-Appellees

ORDER

And

STATE OF CALIFORNIA; CLINTON & CLINTON; ESIS; EVE CODDON HOLLY LAKE; JAMES ZAPP; AMY DOW JERRY BROWN,

Defendants

A review of the record demonstrates that this appeal may be appropriate for summary disposition because the questions on which the decision in the appeal depends may be so insubstantial as to not justify further proceedings. *See* 9th Cir. R. 3-6. Within 21 days after the date of this order, appellant shall show cause why the judgment in this appeal should not be summarily affirmed. Appellees may file a reply to appellant's response within ten days from service of the response. Appellant's failure to comply with this order shall result in the automatic

dismissal of this appeal by the Clerk for failure to prosecute. 9th Cir. R. 42-1.

FOR THE COURT:

Molly C. Dwyer
Clerk of Court

By: Joe Willimas
Deputy Clerk

NOTE: CHANGES MADE BY THE COURT

NOTE: CHANGES HAVE BEEN MADE TO THIS DOCUMENT
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

GLENN HENDERSON, Case No: CV07-7714-
Plaintiff, ODW Honorable Otis
vs. D. Wright II Courtroom 11

JOE HILBERMAN, et al.
Defendants

~~[PROPOSED]~~
ORDER (1) GRANTING DEFENDANTS' MOTIONS TO DISMISS WITH PREJUDICE; (2) GRANTING MOTIONS FOR ORDER DETERMINING PLAINTIFF A VEXATIOUS LITIGANT; ~~(3) GRANTING REQUEST FOR SECURITY;~~ AND (4) ISSUING A PRE-FILING ORDER

Complaint Filed:
November 27, 2007

The motion by Defendants Sony Pictures Entertainment Inc., County of Los Angeles, Office of the District Attorney for the County of Los Angeles and Peter Glick for Order Determining Plaintiff a Vexatious Litigant and Requesting Security and Issuing a Pre-Filing Order came for hearing before the court on February 2, 2009.

At the same time, the Motions to Dismiss filed by Defendants Sony Pictures Entertainment Inc., Paul, Hastings, Janofsky and Walker, LLP, Eve Coddon, Holly Lake, James Zapp, Amy Dow, County of Los Angeles, Office of the District Attorney for the County of Los Angeles, Peter Glick, and Attorney Michael Mukasey also came for hearing before the Court on February 2, 2009.

Having fully considered the papers filed by the parties and the argument of counsel, and for the reasons set forth below, the Court finds that the Defendants, collectively, have sufficiently demonstrated that Plaintiff's litigation history in federal court warrants GRANTING the Motion for Order Determining Plaintiff a Vexatious Litigant, etc. as follows: (1) that Plaintiff Glenn Henderson be declared a vexatious litigant pursuant to the authority vested in this court. *See*, 28 U.S.C. S 1651: Fed. R. Civ. P. Local Rule 83-8.1: (2) that Plaintiff is prohibited from pursuing any further litigation against Defendant Sony Pictures Entertainment Inc., Paul, Hastings, Janofsky and Walker, LLP, Eve Coddon, Holly Lake, James Zapp, Amy Dow, County of Los Angeles, Office of the District Attorney for the

County of Los Angeles, Peter Glick, Rosen Saba, LLP and James R. Rose, involving claims related to or arising out of Henderson's former employment or litigations with Sony, without court order; and (3) that Plaintiff be required to furnish security in the amount of $50,000 as a condition of filing any further proceedings against the aforementioned defendants without a pre-filing review and approval by the Court.

Furthermore, for the reasons set forth below, the Court finds that the Defendants have sufficiently demonstrated that Plaintiff's Second Amended Complaint should be dismissed in its entirety without leave to amend against the aforementioned Defendants.

I. THE BACKGROUND OF THIS ACTION

The present dispute has a long history essentially growing out of and relating to the termination of Plaintiff's employment over seven years ago.

Plaintiff Glenn Henderson was hired by Columbia Pictures Television, Inc., Sony Pictures Entertainment Inc.'s ("Sony") predecessor-in-interest, on August 31, 1998, as a cash allocation clerk. As such, Henderson was responsible for researching cash receipts and allocating those receipts to the appropriate customer invoice. According to Sony, Henderson's performance at the company throughout his employment was inconsistent and poor. Henderson disagrees.

Henderson was terminated, effective October 18, 2001, after which he filed a series of actions against his former employer alleging, *inter alia*, age discrimination, retaliation, and general claims of wrongful termination.

On or about August 21, 2002, the parties reached a settlement agreement and. On August 22, 2002, a request to dismiss the action with prejudice was filed and granted in state and federal court.

Since that initial action, Henderson has filed a series of *pro per* (and/or *pro se*) actions in state and federal court against a multitude of defendants, including the Equal Opportunity Commission, Office and Professional Employees International Union (OPEIU), Local 174, the "United States Government," the United States Department of Justice ("DOJ"), numerous state court judges, the United States Attorney General, and all nine Justices of the United States Supreme Court. Paul, Hastings, Janofsky and Walker, LLP, Eve Coddon, Holly Lake, James Zapp, Amy Dow (collectively referred to as the "Paul Hastings Defendants") were also named in subsequent lawsuits filed by Henderson because of alleged wrongful actions taken against him during their representation of Sony.

It has been brought to the attention of the Court that Henderson has already been declared a "vexatious litigant" in California state court. On September 19, 2005, in an action involving *inter alia*, Sony and the Hastings Defendants, and related to allegations stemming from Henderson's 2001 employment termination, Henderson was declared a vexatious litigant in state court, required to post a $10,000 security bond to proceed with the case, and prohibited from pursuing further litigation without court order, pursuant to California's vexatious litigant statute. See, California Code of Civil Procedure SS 391 - 391.7. Having failed to post the required bond, the action was dismissed.

A. Plaintiff's Current Claims

Plaintiff now seeks redress for a variety of alleged injuries, and review of the constitutionality of California's vexatious litigant statute, in federal court. In his Complaint, Henderson alleges a laundry list of civil and criminal violations including "RICO [violations], CBA [Collective Bargaining Agreement] violations...Stalking, Extortion. Tried to frame me...Cover Up. Aiding and abetting, leaving the scene of a crime. Scam...Threats. Like assault and battery...Attempted Manslaughter...Discrimination...torture... Assault and infliction of bodily harm or serious bodily harm. Assault with a deadly weapon." *See*, Second Amended Complaint ("SAC"), pages 8-9.

A detailed summary of Henderson's federal litigation history related to this matter and the disposition of those findings is discussed in greater detail, *infra*, Section 2(C). The record demonstrates Henderson has attempted to reassert and relitigate the same claims against these Defendants numerous times.

B. Procedural History

Plaintiff's original complaint was filed on November 27, 2007, and is 214 pages in length.

On or about April 1, 2008, Judge Schiavelli granted the Department of Justice's Motion for a More Definite Statement, pursuant to Fed. R. Civ. P. 12(e). Accordingly, on or about April 14, 2008, pursuant to that order, Henderson filed a First Amended Complaint, which is 62 pages long.

On May 12, 2008, Judge Schiavelli, again, granted the Department of Justice's Motion for a More Definite Statement, pursuant to Fed. R. Civ. P. 12(e).

On July 2, 2008, Judge Schiavelli granted the motion to dismiss filed by defendants United States and United States Department of Justice.

On July 18, 2008, Henderson filed the instant 57-page Second Amended Complaint.

On September 4, 2008, Judge Schiavelli dismissed, among others, the Chief Justice of the United States, the eight Associate Justices, and two United States District Judges.

On or about October 8, 2008, this matter was transferred to this Court, upon Judge Schiavelli's retirement.

On October 15, 2008, this court issued an order to show cause why the case should not be dismissed as to any unserved defendant.

On December 4, 2008, Sony's authorized agent received Mr. Henderson's Summons and Second Amended Complaint.

II. MOTION(S) TO DECLARE PLAINTIFF A VEXATIOUS LITIGANT

A. <u>This Court Has Considered The Appropriate Factors Bearing on the Motion(s).</u>

By the authority vested in the district courts, pursuant to 28 U.S.C. S 1651, this Court has the "inherent power to file restrictive pre-filing orders against vexatious litigants with abusive and lengthy histories of litigation." *Weissman v. Quail Lodge, Inc.*, 179 F.3d 1194, 1197 (9th Cir. 1999), *citing, De Long, supra*, 912 F.2d at 1147. *See*, also, *In re Martin-Trigona*, 737 F.2d 1254, 1262 (2nd Cir. 1984) ("Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct [like the filing of time-

consuming and frivolous actions] which impairs their ability to carry out Article III functions.")

Among the restrictions that may be imposed on a litigant found to be vexatious, is a requirement that the litigant obtain the approval of a judge before being allowed to file an action.

Pursuant to Local Rules, it is the policy of the U.S. District Court of the Central District of California "to discourage vexatious litigation and to provide persons who are subjected to vexatious litigation with security against the costs of defending against such litigation and appropriate orders to control such litigation." *See*, Fed. R. Civ. P. Local Rule 83-8.1.

Similarly, when determining when a bond requirement order should issue: "the Court may, at any time, order a party to give security in such amount as the Court determines to be appropriate to secure the payment of any costs, sanctions or other amounts, which may be awarded against a vexatious litigant, and may make such other orders as are appropriate to control the conduct of a vexatious litigant. Such orders may include, without limitation, a directive to the Clerk not to accept further filings from the litigant without payment of normal filing fees and/or without written authorization from a judge of the Court or a Magistrate Judge, issued upon such showing of the evidence supporting the claim as the judge may require."
See, Fed. R. Civ. P. Local Rule 83-8.2

Any order mandating the posting of a security bond pursuant to Local Rule 83-8.2 "shall be based on the finding that the litigant to whom the order is issued has abused the Court's process and is likely to

continue such abuse, unless protective measures are taken." *See*, Fed. R. Civ. P. Local Rule 83-8.2.

Although it is not required, the Court may, "at its discretion, proceed by reference to the Vexatious Litigation statute of the State of California, Cal. Code Civ. Proc. SS 391 – 391.7." *Id.*

The Ninth Circuit has held that before a plaintiff can be enjoined as a vexatious litigant, the court must find that: (1) the plaintiff had notice of the motion and an opportunity to be heard; (2) there was an adequate record for review showing that the litigant's activities were numerous or abusive; (3) the court has made substantive findings as to the frivolous or harassing nature of the litigant's actions; and (4) the order has an appropriate breadth and is narrowly tailored to fit the specific vice encountered. *De Long v. Hennessey*, 912 F.2d 1144, 1147-1148 (9th Cir. 1990).

The Ninth Circuit later clarified the purpose of this "factor test" in *Moloski v. Mandarin Touch Restaurant*, 500 F.3d 1047, 1057-1058 (9th Cir. 2007): "The first two requirements, (1) notice and an opportunity to be heard and (2) the creation of an adequate record, are *procedural considerations* – that is, the factors define '[a] specific method or course of action' that district court should use to assess whether to declare a party a vexatious litigant and enter a pre-filing order. [Citation Omitted.] The latter two factors, requiring (3) findings of frivolousness or harassment and (4) that the order be narrowly tailored to prevent the litigant's abusive behavior, are *substantive considerations* – that is, the factors help the district court define who is, in fact, a 'vexatious litigant' and construct a remedy that will stop the litigant's abusive behavior while

not unduly infringing the litigant's right to access the courts."
[Emphasis added.]

Furthermore, the court in Moloski went on to state that, while it is true the five factors set forth in *Safir v. United States Lines, Inc.*, 792 F.2d 19, 24 (2nd Cir. 1986), which are adapted and applied by the Second Circuit, have never been adopted by the ninth Circuit, they can be viewed as a helpful "toll for analyzing some of the [substantive] factors we set forth in *De Long*." *Moloski, supra*, 500 F.3d at 1057.

The five *Safir* factors are: (1) the litigant's history of litigation and, in particular, whether it entailed vexatious, harassing or duplicative lawsuits; (2) the litigant's motive in pursuing the litigation; (3) whether the litigant is represented by counsel; (4) whether the litigant has caused needless expense to other parties or has posed an unnecessary burden on the courts and their personnel; and (5) whether other sanctions would be adequate to protect the courts and other parties. *Id.*

B. Plaintiff Was Given Notice and Afforded an Opportunity to be Heard.

Plaintiff was given adequate notice pursuant to the Notice(s) of Motion, which were filed and served concurrently with Defendants' present Motions. Similarly, Henderson was afforded an opportunity to be heard both in filing an Opposition to the motion(s) which, despite its excessive length, was read and considered by the Court, and in oral argument, despite the fact that Henderson failed to appear on the date the motion was heard by the Court.

Henderson's arguments were fully considered by the Court and Henderson was afforded an

opportunity to be heard on the motions. Henderson's due process rights have been fully satisfied.

C. Defendants Have Provided an Adequate Record for Review Detailing the Harassing Nature of Plaintiff's Litigations.

Plaintiff has demonstrated a pattern of abusing the court system by filing complaints alleging injuries without factual support and asserting causes of action without bass in law. "An adequate record of review should include a listing of all the cases and motions that lead the district court to conclude that a vexatious litigant order was needed." *De Long*, *supra*, 912 F.2d at 1147.

In an attempt to create a complete and adequate record for review detailing Plaintiff's abuse of the federal court system, the following represents a summary of the contents of Henderson's prior federal filings and the disposition of those cases.[1]

1. *Henderson v. Sony Pictures Entertainment*, CV 02-6081-DDP;

Henderson's employment discrimination and wrongful termination claims were voluntarily dismissed with prejudice by plaintiff, pursuant to a settlement agreement between Sony and Henderson. *See* Exhibit I to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 8/22/02 Notice of Dismissal.

2. Henderson v. EEOC, CV 03-3208-DDP;

Henderson's claims against the Equal Employment Opportunity Commission ("EEOC") for alleged negligence in processing his employment discrimination claim was dismissed without leave to amend by the Honorable Dean D. Pregerson on the basis that he failed to exhaust his administrative remedies and because, even if he had, his claims against the EEOC were barred as a matter of law.

See, Exhibit 2 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 10/24/03 Order Granting Defendants' Motion to Dismiss.

3. *Henderson v. Seltzer*, CV03-5431-RSWL, *aff'd*, FedAppx.934 (9th Cir. June 22, 2005):

Henderson's malpractice and discrimination claims against his doctor in a workers' compensation case were dismissed for lack of subject matter jurisdiction because Henderson failed to allege facts sufficient to show either a federal question, pursuant to

1/ It should be noted that a number of these cases began in state court and were later removed to federal court.

28 U.S.C. S 1331, or diversity jurisdiction, pursuant to 28 U.S.C. S 1332(a). *See*, Exhibit 3 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 7/14/05 Judgment Affirming District Court Dismissal and Unpublished Opinion.

4. *Henderson V. Office and Professional Employees International Union*, CV 03-8082-DDP, *aff'd*, 143 Fed.Appx. 741 (9th Cir. June 22, 2005), cert. denied, 548 U.S. 907, 126 S.Ct. 2944, 165 L.Ed.2d 955 (2006):

Henderson's claims were dismissed in their entirety on a number of grounds, including: (1) his duty of fair representation claim against his union was barred by the applicable statute of limitations; (2) his claim for negligent infliction of emotional distress was preempted by the Labor Management Relations Act of 1947 ("LMRA"); (3) his claim for defamation was preempted by the LMRA; (4) his claim for conspiracy to commit fraud was preempted

by the LMRA; (5) his claim that the union engaged in unfair business practice was properly dismissed because the claim required an analysis of the collective bargaining agreement; (6) his discrimination and retaliation claims were properly dismissed because they failed to state a claim; (7) his claim for a hostile work environment was properly dismissed because he failed to state a claim; (8) his claim of conspiracy was dismissed because he failed to state a claim; (9) his claim for intentional infliction of emotional distress was properly dismissed because he failed to allege that the conduct defendants engaged in was extreme and outrageous as a matter of law; (10) his First Amendment claim was properly dismissed because defendants were not state actors; and (11) his claim under 5 U.S.C. S 552(a)(4)(B) of the Freedom of Information Act was properly dismissed because defendants are not "agencies" and therefore cannot be liable under FOIA. *See*, Exhibit 4 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 10/17/05 Judgment Affirming District Court Dismissal and Unpublished Opinion.

5. *Henderson v. Sony Pictures Entertainment*, CV 03-8782-ABC, *aff'd*, 135 Fed.Appx. 934 (June 22, 2005):

Henderson's claims were dismissed in their entirety on a number of grounds, including: (1) his First Amendment claim against Sony failed because Henderson did not allege that defendants were state actors; (2) his claim under 5 U.S.C. S 552(a)(4)(B) of the Freedom of Information Act ("FOIA") failed because defendants are not "agencies" and therefore cannot be liable under the FOIA; (3) his discrimination and retaliation claims were properly dismissed because they concern events that occurred

after Henderson was terminated from his employment: and (4) the District Court did not abuse its discretion in dismissing Henderson's pendant claims asserted under state law. *See*, Exhibit 5 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 4/24/04 Order Granting Defendants' Motion to Dismiss & 7/18/05 Judgment Affirming District Court Dismissal and Unpublished Opinion.

6. *Henderson v. United States*, CV 04-138 DDP:

Henderson's claims of: (1) failure of government agencies to assist him in his discrimination claims against Sony, (2) improper handling of his complaint (Coercion), harassment, and insult by the assigned mediator, and (3) defamation against the EEOC for statements contained in a letter he received from EEOC representatives, were dismissed in their entirety pursuant to the doctrine of *res judicata*. *See*, Exhibit 6 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 3/10/04 Order Granting Defendants' Motion to Dismiss.

7. *Henderson v. Sony Pictures Entertainment*, CV 04-1346-ABC:

This action was consolidated with the above mentioned Case No. CV 04-8782-ABC. Henderson's claims were dismissed in their entirety on the same grounds, in an identical order issued by the District Court as to both cases. *See*, Exhibit 7 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 4/12/04 Order Granting Defendants' Motion to Dismiss.

8. *Henderson v. Sony Pictures Entertainment*, CV 04-8748-DDP, *aff'd*, 288 Fed.Appx. 387 (9th Cir. Aug. 1, 2008):

The Ninth Circuit affirmed the District Court Order, Holding: (1) Henderson's Title VII claims that

arose during his employment with Sony were barred by the terms of the settlement agreement that resolved his prior action; (2) the District Court was within its discretion in dismissing with prejudice employee's Title VII claims that arose after the agreement was signed, since Henderson already litigated those causes in his 2003 Complaint, and since his appeal was pending in the Ninth Circuit when the District Court dismissed the case; (3) the District properly dismissed without prejudice Henderson's Title VII claims that were based on allegations unrelated to his prior action against Sony because he failed to first exhaust his administrative remedies; and (4) the District Court properly dismissed with prejudice employee's Title VII claims against defendant bank. *See*, Exhibit 8 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 6/20/05 Order Granting Defendants' Motion to Dismiss and Unpublished Opinion Affirming District Court Dismissal.

9. *Henderson v. United States Government*, CV 05-1434-DDP;

Henderson's claims against the United States Government were dismissed for lack of prosecution and for failure to comply with the orders of the court. Henderson failed to show cause, in writing, why the action should not be dismissed. *See*, Exhibit 9 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 9/07/05 Order of Dismissal.

10. *Henderson v. Robertson*, CV 05-5659-ABC; *aff'd*, - Fed.APPX. -, 2008 WL 4185988 (9th Cir. Sept. 9, 2008):

Henderson's claim against a hospital, and an individual identified only as "Dr. Robertson," for a surgery performed om him "when he was five years

old, in 1959 or 1960[,]" was barred by the applicable statute of limitations. *See*, Exhibit 10 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 9/06/05 Order Dismissing Plaintiff's Complaint & Unpublished Opinion Affirming District Court Dismissal.

11. *Henderson v. Sony Pictures*, CV 05-9000-DDP;

Plaintiff filed a one page complaint against "Sony and a John or Jane Doe" for "Retaliation and Defamation," asserting that Sony prevented plaintiff "from getting a good reference[.]" The action was dismissed without prejudice; the district court having declined to exercise supplemental jurisdiction over the defamation claim. *See*, Exhibit 11 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 3/16/06 Order Dismissing Case.

12. *Henderson v. Local 174 Union*, CV 07-5100-PA, appeal pending, CA 08-55154;

This action was dismissed with prejudice by the District court upon its finding that Henderson's claims were barred by the doctrine of *res judicata*. Henderson was found to have twice previously sued the Union on essentially the same claim of inadequate representation in his termination with Sony. Each of these cases were resolved against Henderson on the basis that the claims were barred by the applicable statute of limitations and preempted by LMRA. *See*, Exhibit 12 to Sony's Motion to Declare Plaintiff a Vexatious Litigant, 12/21/07 In Chambers – Court Order.

D. Applying Safir Factors Shows the Frivolous and Harassing Nature of Plaintiff's Litigations

Before issuing a pre-filing injunction against a *pro se* plaintiff, a district court must make "substantive

findings as to the frivolous or harassing nature of the litigant's actions." *De Long*, *supra*, 912 F.2d at 1148. Application of the *Safir* factors demonstrates Plaintiff has a long history of filing frivolous and harassing lawsuits against Defendants.

1. *The Plaintiff's History of Litigation*

A review of Henderson's state and federal litigation history shows a tendency to file complaints without factual support and without a basis in law. Plaintiff's complaints are often rambling and incomprehensible rants against a multitude of defendants without basis for a remedy at law beyond a personal belief that "justice" for him has been denied. In fact, the majority of Henderson's complaints have been dismissed on the grounds that: 1) his asserted claims are barred as a matter of law, 2) his complaint "fails to state a claim" pursuant to Federal Rules of Civil Procedure, Rule 12(b)(6), or 3) he failed to prosecute the claim. Plaintiff's federal litigation history reflects a pattern of filing baseless and unsupportable claims.

By alleging any and all conceivable and criminal wrongs in his complaints, by failing to support these claims in court, and by reasserting the same claims after having lost on these claims previously, Henderson's past lawsuits have been shown to be frivolous, vexatious, and harassing.

2. *The Litigant's Motive in Pursuing the Litigation*

The record before the court reflects Plaintiff's unwillingness or inability to comply with a basic rule of federal procedure requiring plaintiff to file a coherent complaint with a cognizable basis for recovery. Since 2002, Henderson has sued Sony *seven times* in federal court alone, each time

asserting baseless claims and telling a disconnected and disoriented story about abuses suffered at the hands of governmental entities, federal and state judges (including all current members of the US Supreme Court), attorneys, and/or private individuals and businesses. While Henderson has made clear he believes all these entities are, at least in large part, to blame for his misfortunes, he has provided no evidence or facts to support a good faith belief that he should or would prevail on any of these claims.

Moreover, since resolution of the 2002 lawsuit, Plaintiff has filed *more than twenty-one* total lawsuits, between state and federal courts, against Sony, the Paul Hastings Defendants for their representation of Sony, the judicial officers who have presided over his each of his actions, the California Court of Appeals, the United States Supreme Court, and various other defendants.

Having attempted to litigate many of these issues in federal and state court against the same parties many times before, and having lost on theses issues previously, this Court finds that Henderson is bringing these suits against Defendants merely to annoy and harass them.

3. *Whether Litigant is Represented by Counsel*

Henderson's suits are always brought in *properia persona*. While it is true that courts are generally protective of *pro se* litigants, *Molsi, supra*, 347 F.Supp. 2d at 866, flagrant abuse of the judicial process cannot, and will not, be tolerated because it enables one person to preempt the use of judicial time that properly could be used to consider the meritorious claims of other litigants. *De Long, supra*, 912 F.2d at 1148.

Because Henderson has a history of filing complaints without basis in law, and has developed a pattern of refilling the same or similar claims even after a court has ruled against him, permitting him to pursue this practice would only result in continued waste of precious judicial time and resources.

4. *Whether Litigant Has Caused Needless Expense to Other Parties or Has Posed an Unnecessary Burden on the Courts*

Plaintiff has forced Defendants to appear and respond to baseless and incomprehensible complaints resulting in a needless waste of time, money, and public judicial resources. Conversely, when instructed in the past by the Court to appear or respond in writing and explain why he believes his asserted claims have merit, Henderson has, more often than not, failed to appear or respond, resulting in further waste of time, money, and effort on behalf of all parties involved. While the Court has typically dismissed those undefended claims without prejudice, when given the opportunity to amend, Henderson has simply refilled a nearly identical, baseless complaint, forcing Defendants and the Court to begin the costly process anew.

Since Henderson's history of meritless and harassing litigation has caused needless expense and waste of private and judicial resources, the Court finds the Second Amended Compliant should properly be dismissed with prejudice.

5. *Whether Other Sanctions Would Be Adequate to Protect the Courts and Other Parties*

Henderson has made it abundantly clear that he has no intentions of stopping this parade of harassing lawsuits. In his concluding remarks in the Second Amended Complaint, Henderson states:

"I will never stop fighting until I get justice and get my name off [California's vexatious litigant list] and get rid of that list and see the corrupt people get sufficiently punished or until the day I die...That is calling me an abuser of the courts, an American constitutional right. That is the government calling me that. That is saying I am intentionally abusing some else's [sic] constitutional rights. This stuff is saying I am un-American. That is something I will fight until I get justice or die."
See SAC, page 48

Henderson has made it clear that nothing will stop him from freely asserting what he believes to be his absolute constitutional right to unfettered access to federal courts. Accordingly, this Court finds it both appropriate and necessary to take extraordinary steps to curb Henderson's growing affinity for filing frivolous lawsuits. The Court finds other sanctions will not be adequate to protect the courts and other parties from further frivolous lawsuits because Henderson's litigation history shows it has not been so.

Plaintiff's practice in federal court has been to file numerous complaints in several venues. When adverse decisions have been rendered against Plaintiff, appeals were taken, but, eventually judgments against Plaintiff were affirmed. Sometime subsequent to those determinations, Plaintiff added new claims to old claims, (re)-filed "new" complaints, and the process begins anew. This Court finds it appropriate and necessary to break the cycle. Plaintiff has had a fair opportunity to be heard on more than one occasion.

E. <u>This Order is Narrowly Tailored to the Specific Vice Encountered</u>,

Any potential order needs to be "narrowly tailored to closely fit the specific vice encountered." *De long, supra*, 912 F.2d at 1148. The Ninth Circuit found an order preventing a litigant from filing *any* suit in a particular district court to be overbroad. *Id.* On the other hand, an order preventing a party from filing actions under Title III of the Americans with Disabilities Act was found to be appropriate, because it "cover[ed] only the type of claims the [litigant] had been filing vexatiously." *Moloski, supra*, 500 F. 3d at 1061.

The requested pre-filing is appropriately narrow: Plaintiff shall be prohibited from pursuing further litigation against Defendant Sony Pictures Entertainment Inc., Dow, Paul, Hastings, Janofsky, & Walker, LLC, Eve Coddon, Holly Lake, James Zapp, Amy, County of Los Angeles, Office of the District Attorney'for the County of Los Angeles, Peter Glick, Rosen Saba, LLP and James R. Rosen, involving claims related to, or arising out of, Henderson's former employment or litigations with Sony, without a court order.

This order is narrowly tailored because it does not prevent Henderson access to the federal courts; he can still sue other defendants who have not yet sought a pre-filing order. It does not even prevent him from filing a suit against the named Defendants in federal court in the future on unrelated claims. This pre-filing order only applies to a *particular* area of litigation and involving *specific* parties, where Henderson's allegations and conduct has been shown to be abusive, harassing, redundant, and patently without merit.

Moreover, the order does not completely prevent Henderson from bringing claims against Defendants

related to his prior employment or prior litigations involving Sony, it merely subjects such a complaint to an *initial screening review by a district court judge*. If, upon review, the judge finds the claims are not frivolous and have potential merit, Henderson will be permitted to proceed.

As such, the requested order is appropriately narrowly tailored to address only Henderson's past pattern of wrongful and abusive conduct.

III. MOTIONS TO DISMISS SECOND AMENDED COMPLAINT

As previously discussed, Plaintiff's Second Amended Complaint lists a host of unsupported alleged violations of both civil and criminal law, including RICO violations, Collective Bargaining Agreement violations, stalking, extortion, "Tried to frame me...Cover up. Aiding and abetting, leaving the scene of a crime," assault and battery, attempted manslaughter, and torture, to name only a few. The central premise of Henderson's Second Amended Complaint is that he believes he was treated unfairly by "Companies, law firms, and state and federal governments [who} did no [sic] do their jobs of hiring, supervising, and training these employees, lawyers, and judges." *See*, SAC, page 8.

Moreover, the bulk of the Second Amended Complaint is a generalized and repetitive rant about the failures of the justice system to provide *pro se* litigants enough assistance to bring and prosecute their civil claims in court and the alleged unconstitutionality of California's vexatious litigant statute.

Under Federal Rule of Civil Procedure ("FRCP") 12(b)(6) a defendant may seek to dismiss a complaint which "fail[s] to state a claim upon which relief can

be granted." In determining whether a party states a claim for relief, a Court "is not required to accept legal conclusions cast in the form of factual allegations if those conclusions cannot be reasonably drawn from the facts alleged." *Clegg v. Cult Awareness Network*, 18 F.3d 752, 754-55 (9th Cir. 1994) [Internal citations omitted.] "The court need not, however, accept as true allegations that contradict matters properly subject to judicial notice or shown by exhibit. Nor is the court required to accept as true allegations that are merely conclusory, unwarranted deductions of fact, or unreasonable inferences." *Sprewell v. Golden State Warriors*, 266 F.3d 979, 988 (9th Cir. 2001) [Internal citations omitted.]

Dismissal is proper where a complaint is vague, conclusory, general, or fails to set forth any material facts in support of the allegations. *See, North Star Intern v. Arizona Corp. Comm'n*, 720 F.2d 578 (9th Cir. 1983). If dismissal is proper, leave to amend may be denied where it is clear a complaint cannot be saved by amendment. *Livid Holdings Ltd. V. Salomon Barney, Inc.*, 416 F.3d 940 (9th Cir. 2005).

Despite his having made a multitude of claims against the abovementioned Defendants, albeit it in vague and general terms, Plaintiff fails to state even minimal facts which support any of his claims for relief. Twice before, Plaintiff has been instructed by the court to both clarify and provide factual support for his allegations. Plaintiff has failed to do so. When it is clear a claim for relief cannot be cured by amendment, it should be dismissed without affording the plaintiff leave to amend. *Lucas v. Dept. of Corrections*, 66 F.3D 245, 248 (9th Cir. 1995).

Plaintiff has alleged claims without a supported basis in legal theory (i.e., "insult," adversely affected my relationships," "tried to frame me," and "scam"), has asserted claims barred as a matter of law,[2] and has simply failed to identify or plead any facts to support any elements of his alleged claims. *See*, SAC, pages 8-9. Plaintiff has been afforded numerous opportunities to remedy these previously identified deficiencies in his complaint. Since it is clear Plaintiff is either unable or unwilling to amend his complaint to plead basic facts that would entitle him to relief, his Second Amended Complaint as against the remaining Defendants is dismissed with prejudice.

IV. ORDER OF THE COURT

For the foregoing reasons, the Court GRANTS Defendants' motions to Declare Plaintiff a Vexatious Litigant as follows:

(1) that Plaintiff Glenn Henderson be declared a vexatious litigant pursuant to the authority vested in this court. See, 28 U.S.C. S 1651; Fed. R. Civ. P. Local Rule 83-8.1.;

(2) that Plaintiff is prohibited from pursuing further litigation against Defendant Sony Pictures Entertainment Inc., Paul, Hastings, Janofsky and Walker, LLP, Eve Coddon, Holly Lake, James Zapp, Amy Dow, County of Los Angeles, Office of the District Attorney for the County of Los Angeles, Peter Glick, Rosen Saba, LLP and James R. Rosen, involving claims related to or arising out of Henderson's former employment or litigations with Sony, without court order; and

~~(3) that Plaintiff be required to furnish security in the amount of $50,000 as a pre-condition of filing any further proceedings against the aforementioned~~

~~defendants without a pre-filing review and approval by the Court.~~

[2]/For example, many of Henderson's asserted claims are barred under the doctrine of *res judicata*. Additionally, because Henderson's past and present allegations against attorney defendants relate only to pleadings filed in court, or to statements made in court or in connection with litigation, the attorney defendants are immune from suit, pursuant to California's litigation privilege. *See*, Cal. Civ. C. S 47(b).

For the foregoing reasons, the Court also GRANTS Defendants Motions to Dismiss Plaintiff's Second Amended Complaint with prejudice, pursuant to Federal Rule of Civil Procedure 12(b)(6) for Failure to State a Claim.

IT IS SO ORDERED.
DATED: February 11, 2009 _____
The Honorable Otis D. Wright II
United States District Judge

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
CIVIL MINUTES – GENERAL
Case No, CV 07-7714-GPS Date: September 6, 2008
Title: Glenn Henderson v. Joe Hilberman, et al.
==========
Present: THE HONORABLE GEORGE P. SCHIAVELLI, JUDGE

Jake Yerke	Not Present
Courtroom Clerk	Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS: Not Present ATTORNEYS PRESENT FOR DEFENDANTS: Not Present

PROCEEDINGS: Order Granting Dismissal of Federal Judicial Defendants and City of Culver City (In Chambers)

On July 18, 2008, Plaintiff Glenn Henderson, representing himself pro se, filed a Second Amended Complaint ("SAC") in this matter. On August 7, 2008, Defendants the Justices of the United States Supreme Court,[1] and Judges Dean P. Pregerson and Audrey B. Collins of this Court) collectively, the "Federal Judicial Defendants") filed a motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6). On August 8, 2008, Defendant City of Culver City ("the City"), filed its own 12 (b)(6) motion.

The Court finds defendants' Motions to Dismiss appropriate for disposition without oral argument. Local Rule 7-15. The Motions will be GRANTED for the reasons discussed below.

Even after two rounds of amendments, the complaint remains informal and difficult to untangle, the Court recognizes the "policy of liberal construction in favor of pro se litigants." *Sollis v. County of Los Angeles*, 514 F.3d. 946, 957 n. 12 (9th Cir. 2008). Thus, the Court will describe the factual allegations as it best can.

Mr. Henderson has named twenty-four defendants in his complaint. At some point, Mr. Henderson was terminated by Sony Pictures Entertainment ("Sony"). He alleges

[3] Plaintiff has individually named Chief Justice John G. Roberts, Jr.; Associate Justices John Paul Stevens, Antonin Scalia, Anthony M. Kennedy, David Hackett Souter, Clarence Thomas, Ruth Bader Ginsburg, Stephen G. Breyer, and Samuel Anthony Alito, Jr.

this termination was discriminatory and that he was coerced into signing a settlement. (SAC p. 2) Mr. Henderson also asserts yjay various governmental and nongovernmental entities, including his union, the Culver City Police Department, the Equal Employment Opportunity Commission ("EEOC", the U.S. Department of Justice ("DOJ"), the California Attorney general, and the Los Angeles District Attorney all failed to adequately assist him in prosecuting and/or investigating his claims of fraud, harassment, assault, and numerous other crimes. (SAC Pp. 15-, 7.) Mr. Henderson also sues ESIS, Sony's workers' compensation insurance carrier, for conduct relating to a Settlement of an earlier case. (SAC p. 5.)

Mr. Henderson also sues a number of lawyers whom he claims have defrauded him, represented him poorly, or opposed him in various actions,. (SAC pp. 2-7, 8-57.) He brings claims against the judges who have heard or refused to hear many of these claims,[2] alleging they have defamed him and violated his constitutional rights in the course of prior litigation. (SAC pp. 8-57.) Mr. Henderson particularly takes issue with the Superior Court's declaration of him as a vexatious litigant. (SAC pp. 8-57.)

Under Federal Rule of Civil Procedure 12(b))6), a motion to dismiss should be granted if there is a "lack of a cognizable legal theory." *Johnson v. Riverside Healthcare System, LLP*, 534 F.3d 1116, 1121 (9th Cir. 2008) For the reasons discussed below, the motions to dismiss for failure to state a claim are GRANTED.

1. The City of Culver City

Plaintiff argues that the Culver City Police Department violated his equal protection rights[3] under the Fourteenth Amendment to the U.S. Constitution by "not investigating or doing anything about" the alleged harassment against him by Sony. (SAC p. 7)

Since Mr. Henderson does not allege membership in any group, the Court presumes he is presenting a "class of one" equal protection claim. *See Village of Willowbrook v. Olech*, 528 U.S. 562 (2000). "in order to claim a violation of equal protection in a class of one case, the plaintiff must establish that the City intentionally, and without rational basis, treated the plaintiff differently from others similarly situated." *N. Pacifica v. City of Pacifica*, 526 F. 3d 478, (9th Cir. 2008).

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[2] Claims against California state court judges were dismissed by this Court on June 25, 2008.

[3] Plaintiff does not use the term "equal protection" in the SAC, but this is the only conceivable Fourteenth Amendment claim he can present. There is no "due process right to have a full and fair police investigation." *Gomez v. Whitney*, 757 F. 2d 1005, 1006 (9th Cir. 1985).

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Mr. Henderson's assertion that "some people get their complaints investigated or get to file a complaint" is insufficient to establish that he was treated differently from others similarly situated, even if taken as true. The allocation of police resources is an inherently discretionary decision, based on multiple factors including the nature and strength of the complaint. Mr. Henderson has not alleged that the Culver City Police Department investigated others' complaints of workplace-related harassment, nor has he alleged discriminatory intent, which he is required for an equal protection claim. *See Navarro v. Block*, 72 F.3d 712, 716 (9th Cir. 1995) ("a long line of Supreme Court cases make clear that the Equal Protection Clause requires proof of discriminatory intent").

Since Mr. Henderson has not stated a viable constitutional claim against the City of Culver City, the City's motion to dismiss must be GRANTED.

2. The Judicial Defendants

Over fifty pages of Plaintiff's complaint are dedicated to a count against the Judicial Defendants, as well as several attorneys and Sony Pictures Entertainment. (SAC pp. 8-57.) Mr. Henderson charges these Defendants with a variety of crimes, torts, constitutional violations, and nonactionable deeds.

a) Judges Pregerson and Collins

Mr. Henderson's claims against Judge Pregerson and Judge Collins focus on the alleged "mistakes" they made in ruling against him in cases before them. For example, he states "I think Pregerson should have let my first case with the EEOC be dismissed without prejudice or let me amend the

complaint" and "she (Judge Collins) had made mistakes in her rulings." (SAC p. 12) Mr. Henderson then proceeds to explain why these judges' opinions about his discrimination and retaliation complaints were wrong on the merits. (SAC p. 13.)

The Federal Rules of Civil and Appellate Procedure provide several means of challenging the factual or legal findings of a United States District Court Judge (namely, motion for reconsideration, appeal to the Court of Appeals, and appeal to the United States Supreme Court via the certiorari process). Mr. Henderson appears to have exhausted these remedies. Having done so, he may not collectively attack Judges Pregerson and Collins' decisions; to allow "collateral attack on the judgment would – quite apart from any consideration of fairness to the parties – disturb the orderly operation of the federal judicial system." *U.S. Bankruptcy Mortg. Co. V. Bonner Mall P'ship*, 513 U.S. 18, 27 (1994).

Judges cannot be sued for judicial decisions made in cases before them, no matter how devastating to a party they may be. In determining whether an act is judicial, and thus immune, the Court considers whether: "(1) the precise act is a normal function; (2) the events occurred in the judge's chambers; (3)

the controversy centered around a case then pending before the judge; and (4) the events at issue arose directly and immediately out of a confrontation with the judge in his or her official capacity." *Duvall v. County of Kitsap*, 260 F.3d 1124, 1133 (9th Cir. 2001),

citing Meek v. County of Riverside, 183 F.3d 962, 967 (9th Cir. 1999).

These factors clearly indicate that Judges Pregerson and Collins are immune from lawsuit over the various actions they took in Mr. Henderson's lawsuits. As such, the claims against them are to be dismissed.

b) Supreme Court Justices

Plaintiff's only allegation about the members of the Supreme Court is that they would not hear his appeal, and more broadly, have not live up to his ideals of fairness and Justice. (SAC pp. 33, 44, 52-53.) 28 U.S.C. S 1253 expressively provides that causes like Mr. Henderson's are to be reviewed by the discretionary certiorari process. The Supreme Court can only hear a small fraction of the cases appealed to it each year, and "the denial of a writ of certiorari imports no expression of opinion upon the merits of case." *Missouri v. Jenkins*, 515 U.S. 70, 85 (1995). Mr. Henderson challenges the constitutionality of this practice. (SAC p. 33) But the text of Article II, S 2 of the Constitution explicitly authorizes Congress to make "exceptions" and "regulations" as to the docket of the Supreme Court. Given the practical realities of the number of cases processed by the Courts of Appeals and various state Supreme Courts, and the limited calendar of the U.S. Supreme Court, the Court does not find the discretionary certiorari process constitutionally suspect.

Thus, Mr. Henderson fails to state a claim against the members of the Supreme Court, and the claims against them are DISMISSED.

Conclusion

Mr. Henderson wants "the Court to tell [him] what [he] cab do" to achieve justice against the various defendants. (SAC # 7.) Unfortunately, the Court cannot instruct Mr. Henderson in such a manner. *See, e.g., Pliler v. Ford*, 542 U.S. 225, 231 (2004) ("Requesting district courts to advise a pro se litigant in such a manner would undermine district judges' role as impartial decisionmakers.") For the reasons explained above, the motions to dismiss are GRANTED with prejudice.

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UNITED STATES DISTRICT COURT Send
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
CIVIL MINUTES – GENERAL
Case No, CV 07-7714-GPS Date: July 2, 2008
Title: Glenn Henderson v. Joe Hilberman, et al.
==========
Present: THE HONORABLE GEORGE P. SCHIAVELLI, JUDGE
Jake Yerke — Not Present
Courtroom Clerk — Court Reporter
ATTORNEYS PRESENT FOR PLAINTIFFS: Not Present ATTORNEYS PRESENT FOR DEFENDANTS: Not Present
PROCEEDINGS: Order Granting Dismissal by Defendants United States and the U.S. Department of Justice (In Chambers)

On June 18, 2008, the United States and the U.S. Department of Justice (collectively the "Federal Government Defendants") filed a motion to dismiss the action against them pursuant to Federal Rule of Civil Procedure 12(b)(1) and 12(b)(6). This motion was set to be heard on July 14, 2008. Accordingly, any opposition was due to be filed by June 30, 2008. Local Rule 7-9. Plaintiff did not file a timely opposition. By failing to oppose, under Local Rule 7-12, Plaintiff may be deemed to consent to the granting of the motion. Nevertheless, the Court will consider the Federal Government Defendants' motion on its merits.

In this action, Plaintiff seeks equitable relief from the Federal Government Defendants because they allegedly violated his constitutional rights and the RICO statutes by not investigating his claims against defendant Sony, his union, and other "corrupt defendants." This claim fails as a matter of law because there is no constitutional duty for the government to protect members of the public from harm inflicted by third parties[1] and the United States and its agencies cannot be liable under RICO.[2] Additionally, to the degree Plaintiff's claims against these defendants could be construed as Federal Torts Claims Act claims, they fail because the USDOJ cannot be held liable under this statute and Plaintiff failed to demonstrate he exhausted his administrative remedies as to the United States. *See Kennedy v. United States Postal Service*, 508 U.S. 106 (1993). Accordingly, the Federal Government defendants' motion to dismiss is GRANTED. Plaintiff shall omit any claims against these defendants in the amended complaint he was previously ordered to file by July 7, 2008.

[1] *DeShaney v. Winnebago County Dept. of Social Services*, 489 U.S. 189, 196-97 (1989).

[2] *Pedrina v, Chun*, 97 F.3d 1296, 1300 (9th Cir. 1996).

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CIVIL – GEN

UNITED STATES DISTRICT COURT Send
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
CIVIL MINUTES – GENERAL

Case No, CV 07-7714-GPS Date: June 23, 2008
Title: Glenn Henderson v. Joe Hilberman, et al.
==========

Present: THE HONORABLE GEORGE P. SCHIAVELLI, JUDGE

Jake Yerke	Not Present
Courtroom Clerk	Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS: Not Present ATTORNEYS PRESENT FOR DEFENDANTS: Not Present

PROCEEDINGS: Order Granting Defendants' Motion to Dismiss (In Chambers)

I. Introduction

Before the Court is a Motion to Dismiss by Defendants Hon. Joe Hilberman, Hon. Roger Boren, Hon. Michael Stern, Hon. Ronald George, Hon. Carlos Moreno, Hon. Joyce Kennard, Hon. Kathryn Werdegar, Hon. Ming Chin, Hon. Marvin Baxter, Hon. Carol Corrigan, Hon. Linda Lefkowitz, ("Judicial Defendants"), the Judicial Council of the State of California, and the California Department of Justice (collectively "Defendants"). Judicial

Defendants are California Supreme Court Justices and state court judges who presided over Plaintiff's prior state court action. The Court finds this motion appropriate for decision without oral argument. L.R. 7-15.

On April 15, 2008, Plaintiff Glenn Henderson ("Plaintiff"), filed an amended complaint against Defendants alleging fraud, RICO, and violation of his civil rights. The Judicial Defendants were named because they had presided over Plaintiff's prior state court action. Plaintiff requests that the Court rule that his prior state court actions should not have been dismissed and that he should not have been declared a vexatious litigant under the California Code of Civil Procedure S 391 ("section 391").

Defendants move to dismiss the first amended complaint and each of the claims alleged against them on the grounds that: (1) the claims against the State Judicial Defendants are barred by the *Rooker-Feldman* doctrine and judicial immunity; (2) the claims against the State of California and its agencies and officials are barred by the *Eleventh Amendment*; and (3) the first amended complaint fails to state facts sufficient to constitute a claim for relief. Because the Court finds Defendants' first and second arguments persuasive, it does not reach the third.

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Thus, for the reasons set forth below, Defendants' Motion to Dismiss is GRANTED>

II. Rooker-Feldman Doctrine

This Court does not have jurisdiction over Plaintiff's claims pursuant to the *Rooker-Feldman*

doctrine. Under the doctrine, the District Courts of the United States, as courts of original jurisdiction, lack jurisdiction over challenges to state court decisions, particularly cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional. *D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 486 (1993). In *Feldman*, the United States Supreme Court held that if the constitutional claim presented to the United States are "inextricably intertwined" with the state court's decision, then the plaintiff was asking the district court to review the state court's decision, and such claims are prohibited under 28 U.S.C. S 1257. *Id.* at 483-84 & n. 16.

The Ninth Circuit clarified the application of the *Rooker-Feldman* doctrine in *Worldwide Church of God v. Mcnair*, 805 F.2d. 888 (9th Cir. 1986). In *WWCG*, the *Rooker-Feldman* doctrine barred Plaintiff's constitutional challenge to a state verdict. *Id.* at 892-93. Because there is no "bright line rule" in determining whether a constitutional issue is intertwined with a state court decision, the *WWCG*, court reasoned that in order to make this determination, a claim is inextricably intertwined if the district court must not only scrutinize the challenged rule itself, but the state courts application of the rule. *Id.* at 892. The *WWCG* court found the district court could not hear plaintiff's case because it would be impossible for the court to evaluate plaintiff's constitutional claims without conducting a review of the state court's legal determinations and jury verdict. *Id.* at 892-93.

In this case, the Plaintiff seeks a declaration that his previous cases had merit and should have gone to trial. (FAC at 2-3.5.) Plaintiff alleges that

Defendants discriminated and retaliated against him because he did not take his complaints of discrimination and retaliation seriously. (*Id.* at 6.) Additionally, Plaintiff states that he brings this action because "...(he was) put on the unconstitutional California Code of Civil Procedure Section 391 list, even though I had not violated it, and about the courts not adjudicating my cases properly. It is about cases being reinstated that were dismissed because section 391 was used against me." (*Id.* at 13.) Plaintiff also states that "Judges did not act in good behavior, so they did not have jurisdiction. Judges can be sued if the do not have jurisdiction." (*Id.* at 16.)

Plaintiff is bringing suit against the Defendant Judges for actions undertaken in their judicial capacity. (*Id.* at 1.) Specifically, Plaintiff requests this Court review the decisions and actions taken by Defendants in state court, and the application of section 391. Because Plaintiff's suit against Judicial Defendants is based on their state court decisions and their application of section 391,

this action is barred by the *Rooker-Feldman* doctrine. Although this determination is sufficient to dispose of Plaintiff's claims against the moving Defendants, this Court will consider two additional relevant issues.

III Judicial Immunity

Plaintiff's suit against the Judicial Defendants is also barred under the judicial immunity doctrine. Judges are not liable to civil actions challenging their judicial actions even when such acts are in excess of

their jurisdiction and are alleged to have been done maliciously or corruptly. *Bradley v. Fisher*, 80 U.S. 335, 347 (1871). The principle of judicial immunity provides judicial officers shall be free to exercise their lawful authority without apprehension of personal consequences. *Id.* The doctrine benefits the public, whose interest it is that judges should be at liberty to serve with independence and without fear of consequences. *Pierson v. Ray*, 386 U.S. 547, 554 (1967). Judges should not have to fear that unsatisfied litigants may hound them with litigation. *Id.*

There are only two exceptions to the judicial immunity doctrine. The first is liability for non-judicial acts, and the second is liability for actions taken in the complete absence of jurisdiction. *Mireless v. Waco*, 502 U.S. 9, 11 (1991). Otherwise, judicial immunity is absolute. Whether an act by a judge is a judicial act relates to the nature of the act itself, i.e., whether it is a function normally performed by a judge, and to the expectations of the parties, i.e., whether they dealt with the judges in his judicial capacity. *Stump v. Sparkman*, 435 U.S. 349, 362 (1978).

Plaintiff alleges he has sued the Judicial Defendants in their public, professional, and private capacities, but states that he is seeking a determination that his prior cases should not have been dismissed. (FAC at 1, 3.) Thus, despite Plaintiff's contention to the contrary, his suit actually is against the Judicial Defendants in their judicial capacity. Accordingly, Plaintiff's claims are barred by the judicial immunity doctrine.

IV. The Eleventh Amendment

Plaintiff's action against the California Judicial Council and the California Department of Justice is barred by the *Eleventh Amendment* to the United States Constitution. U.S. Const. amend. XI. "The *Eleventh Amendment* bars suits...against a state, an 'arm of the state,' its instrumentalities, or its agencies." *Franceschi v. Schwartz*, 57 F.3d. 828, 831 (9th Cir. 1995). State immunity extends to state agencies, who act on behalf of the state and can therefore assert the state's sovereign immunity. *Puerto Rico Aqueduct and Sewer Authority v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 142-46 (1993).

Here, both the California Department of Justice and the Judicial Council are immune under the *Eleventh Amendment. See Bailey v. State of Cal. Dep't Justice et al.*, No. 07-CV-2090, 2008 U.S. Dist. LEXIS 21536, at *7 (S.D. Cal. Mar. 18, 2008) (holding that the *Eleventh Amendment* bars suit against the California Department of Justice); *NASD Dispute Resolution, Inc. et al. V. Judicial Council et al.*, 232 F. Supp. 2d 1055, 1064 (N.D. Cal. 2002) (holding that the Judicial Council is a statewide body and enjoys the full protection of the *Eleventh Amendment*), *vacated on other grounds*, 488 F.3d. 1065 (9th Cir. 2007).

V. Conclusion

In light of the above, Plaintiff's claims against Defendants are DISMISSED WITH PREJUDICE. Defendant shall file any amended complaint consistent with this order and previous orders of this court by July 7, 2008.

IT IS SO ORDERED.

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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION
CIVIL MINUTES – GENERAL
Case No, CV 07-7714-GPS Date: May 12, 2008
Title: Glenn Henderson v. Joe Hilberman, et al.
==========
Present: THE HONORABLE GEORGE P. SCHIAVELLI, JUDGE

Jake Yerke	Not Present
Courtroom Clerk	Court Reporter

ATTORNEYS PRESENT FOR PLAINTIFFS: Not Present ATTORNEYS PRESENT FOR DEFENDANTS: Not Present
PROCEEDINGS: Order Granting Defendant Schmid & Voiles' Motion to Dismiss; Order Granting Defendant the Los Angeles Police Department's Motion to Dismiss; Order Granting Defendant the Department of Justice's Motion for a More Definitive Statement (In Chambers)

On November 27, 2007, Plaintiff filed a complaint against a number of state and federal officials and entities as well as private individuals. On of the federal defendants, the United States Department of Justice ("the USDOJ") filed a motion for more definite statement on March 14, 2008. The Court granted this motion. Plaintiff filed his First Amended Complaint ("FAC") on April 15, 2008.

Presently before the Court are three motions filed in response to the FAC: (1) the USDOJ's second motion for a more definite statement, (2) the Los Angeles Police Department's ("LAPD's") motion to dismiss or in the alternative, motion for a more definite statement, and (3) Defendant Schmid & Voiles' ("S&V's") motion to dismiss. The Court finds these motions appropriate for decision without oral argument. L.R. 7-15.

From the FAC and Plaintiff's responses to the pending motions, it appears that the present actions stem from the termination of Plaintiff's employment with Defendant Sony. Although Plaintiff's lengthy FAC alleges claims against numerous defendants, the Court need only consider the claims against the moving parties at this time.

Defendant S&V

Defendant S&V is a private law firm that defended psychiatrist Dr. Seltzer in two actions, one in state court and one in federal court, Plaintiff filed against her. By motion of S&V, both of these actions were dismissed

with prejudice. These dismissals were affirmed on appeal.

In the FAC, Plaintiff alleges Defendant S&V is liable for RICO, fraud, violation of constitutional rights, conspiracy to violate constitutional rights, insult, defamation, and "(a)nything else that I have not mentioned." (FAC at 2.) Based on these claims, Plaintiff seeks a declaration that his cases against Dr. Seltzer should not have been dismissed. (*Id.*) The only factual allegations levied at S&V is that it

provided him with an order and not an entry of judgment and that, as a result, on of Plaintiff's appeals was denied as untimely. (*Id.*)

The Court finds Plaintiff has failed to allege any viable claim against Defendant S&V. First, Plaintiff fails to set forth any allegations with the specificity that could sustain a claim for RICO or fraud. Second, Defendant S&V is a private entity and therefore cannot be liable constitutional violations. Third, Defendant S&V cannot be liable under any theory for failing to help Plaintiff file a timely appeal. Accordingly, Defendant S&V's motion to dismiss is GRANTED.

Defendant LAPD

In the FAC, Plaintiff claims Defendant LAPD wrongfully failed to investigate his claims against Defendant Sony and asks they be ordered to do so. His claim fails as a matter of law because there is no constitutional duty on the part of government officials to protect members of the public against harm inflicted by third parties. *See DeShaney v. Winnebago County Dep'y of Social Serv.*, 489 U.S. 189, 196-97 (1989) (per curiam); *Wang v. Reno*, 81 F.3d. 808 (9th Cir. 1996). Accordingly, Defendant LAPD's motion to dismiss is GRANTED.

Defendant USDOJ

In the FAC, Plaintiff claims the USDOJ[1] wrongfully failed to investigate his claims against Sony, his union and the "corrupt defendants" – twenty-two (22) individuals, courts, and law firms. (FAC at 7; Plf's Replay to USDOJ Motion at 1.) Although this claim appears invalid as a matter of law for the same reasons that Plaintiff's claims against the LAPD, the USDOJ only requested that Plaintiff file a more definite statement. Because the

Court agrees that Plaintiff's FAC does not state a clear claim against the United States or the USDOJ, the motion for a more definite statement is GRANTED.

[1] While Plaintiff's allegations in the FAC are actually against the United States Government, the Court will construe them as having been made against the USDOJ for the purposes of the present motions.

Conclusion

In light of the above, Plaintiff's claims against Defendants LAPD and S&V are DISMISSED. Plaintiff shall file any amended complaint consistent with this order by June 2, 2008.

IT IS SO ORDERED.

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Laws and Statutes
Fourteenth Amendment
The Constitution grants due process under the Fifth and Fourteenth Amendments.
Civil Rights Act of 1964.
FRCP 11
Americans with Disabilities Act
Age Discrimination in Employment Act
FEHA
Title II
Title IX

CA Code of Civil Procedure

391. As used in this title, the following terms have the following meanings:

(a) "Litigation" means any civil action or proceeding, commenced, maintained or pending in any state or federal court.

(b) "Vexatious litigant" means a person who does any of the following:

(1) In the immediately preceding seven-year period has commenced, prosecuted, or maintained in propria persona at least five litigations other than in a small claims court that have been (i)finally determined adversely to the person or (ii) unjustifiably permitted to remain pending at least two years without having been brought to trial or hearing.

(2) After a litigation has been finally determined against the person, repeatedly relitigates or attempts to relitigate, in propria persona, either (i) the validity of the determination against the same defendant or defendants as to whom the litigation was finally determined or (ii) the cause of action, claim, controversy, or any of the issues of fact or law, determined or concluded by the final determination against the same defendant or defendants as to whom the litigation was finally determined.

(3) In any litigation while acting in propria persona, repeatedly files unmeritorious motions, pleadings, or other papers, conducts unnecessary discovery, or engages in other tactics that are frivolous or solely intended to cause unnecessary delay.

(4) Has previously been declared to be a vexatious litigant by any state or federal court of record in any action or proceeding based upon the same or substantially similar facts, transaction, or occurrence.

(c) "Security" means an undertaking to assure payment, to the party for whose benefit the undertaking is required to be furnished of the party's reasonable expenses, including attorney's fees and not limited to taxable costs, incurred in or in connection with a litigation instituted, caused to be instituted, or maintained or caused to be maintained by a vexatious litigant.

(d) "Plaintiff" means the person who commences, institutes or maintains a litigation or causes it to be commenced, instituted or maintained, including an attorney at law acting in propria persona.

(e) "Defendant" means a person (including corporation, association, partnership and firm or governmental entity) against whom a litigation is brought or maintained or sought to be brought or maintained.

391.1. In any litigation pending in any court of this state, at anytime until final judgment is entered, a defendant may move the court, upon notice and hearing, for an order requiring the plaintiff to furnish security. The motion must be based upon the ground, and supported by a showing, that the plaintiff is a vexatious litigant
and that there is not a reasonable probability that he will prevail in the litigation against the moving defendant.

391.2. At the hearing upon such motion the court shall consider such evidence, written or oral, by witnesses or affidavit, as may be material to the

ground of the motion. No determination made by the court in determining or ruling upon the motion shall be or be deemed to be a determination of any issue in the litigation or of the merits thereof.

391.3. If, after hearing the evidence upon the motion, the court determines that the plaintiff is a vexatious litigant and that there is no reasonable probability that the plaintiff will prevail in the litigation against the moving defendant, the court shall order the plaintiff to furnish, for the benefit of the moving defendant, security in such amount and within such time as the court shall fix.

391.4. When security that has been ordered furnished is not furnished as ordered, the litigation shall be dismissed as to the defendant for whose benefit it was ordered furnished.

391.6. When a motion pursuant to Section 391.1 is filed prior to trial the litigation is stayed, and the moving defendant need not plead, until 10 days after the motion shall have been denied, or if granted, until 10 days after the required security has been furnished and the moving defendant given written notice thereof. When a motion pursuant to Section 391.1 is made at any time thereafter, the litigation shall be stayed for such period after the denial of the motion or the furnishing of the required security as the court shall determine.

391.7.(a) In addition to any other relief provided in this title, the court may, on its own motion or the motion of any party, enter a prefiling order which prohibits a vexatious litigant from filing any new litigation in the courts of this state in propria persona without first obtaining leave of the presiding judge of the court where the litigation is proposed to

be filed. Disobedience of the order by a vexatious litigant may be punished as a contempt of court.

(b)The presiding judge shall permit the filing of that litigation only if it appears that the litigation has merit and has not been filed for the purposes of harassment or delay. The presiding judge may condition the filing of the litigation upon the furnishing of security for the benefit of the defendants as provided in Section 391.3.

(c) The clerk may not file any litigation presented by a vexatious litigant subject to a prefiling order unless the vexatious litigant first obtains an order from the presiding judge permitting the filing. If the clerk mistakenly files the litigation without the order, any party may file with the clerk and serve on the plaintiff and other parties a notice stating that the plaintiff is a vexatious litigant subject to a prefiling order as set forth in subdivision (a).The filing of the notice shall automatically stay the litigation. The litigation shall be automatically dismissed unless the plaintiff within 10 days of the filing of that notice obtains an order from the presiding judge permitting the filing of the litigation as set forth in subdivision (b). If the presiding judge issues an order permitting the filing, the stay of the litigation shall remain in effect, and the defendants need not plead, until 10 days after the defendants are served with a copy of the order.

(d)For purposes of this section, "litigation" includes any petition, application, or motion other than a discovery motion, in a proceeding under the Family Code or Probate Code, for any order.

(e)The clerk of the court shall provide the Judicial Council a copy of any prefiling orders issued pursuant to subdivision (a).The Judicial Council

shall maintain a record of vexatious litigants subject to those prefiling orders and shall annually disseminate a list of those persons to the clerks of the courts of this state.

CA Civil Code
43. Besides the personal rights mentioned or recognized in the Government Code, every person has, subject to the qualifications and restrictions provided by law, the right of protection from bodily restraint or harm, from personal insult, from defamation, and from injury to his personal relations.
533. In any action, the court may on notice modify or dissolve an injunction or temporary restraining order upon a showing that there has been a material change in the facts upon which the injunction or temporary restraining order was granted, that the law upon which the injunction or temporary restraining order was granted has changed, or that the ends of justice would be served by the modification or dissolution of the injunction or temporary restraining order.
1549. A contract is an agreement to do or not to do a certain thing.
1550. It is essential to the existence of a contract that there should be:

1. Parties capable of contracting;
2. Their consent;
3. A lawful object; and,
4. A sufficient cause or consideration.

1565. The consent of the parties to a contract must be:

1. Free;
2. Mutual; and,

3. Communicated by each to the other.

1566. A consent which is not free is nevertheless not absolutely void, but may be rescinded by the parties, in the manner prescribed by the Chapter on Rescission.

1567. An apparent consent is not real or free when obtained through:

1. Duress;
2. Menace;
3. Fraud;
4. Undue influence; or,
5. Mistake.

1568. Consent is deemed to have been obtained through one of the causes mentioned in the last section only when it would not have been given had such cause not existed.

1569. Duress consists in:

1. Unlawful confinement of the person of the party, or of the husband or wife of such party, or of an ancestor, descendant, or adopted child of such party, husband, or wife;

2. Unlawful detention of the property of any such person; or,

3. Confinement of such person, lawful in form, but fraudulently obtained, or fraudulently made unjustly harassing or oppressive.

1570. Menace consists in a threat:

1. Of such duress as is specified in Subdivisions 1 and 3 of the last section;

2. Of unlawful and violent injury to the person or property of any such person as is specified in the last section; or,

3. Of injury to the character of any such person.

1571. Fraud is either actual or constructive.

1572. Actual fraud, within the meaning of this Chapter, consists in any of the following acts, committed by a party to the contract, or with his connivance, with intent to deceive another party thereto, or to induce him to enter into the contract:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

2. The positive assertion, in a manner not warranted by the information of the person making it, of that which is not true, though he believes it to be true;

3. The suppression of that which is true, by one having knowledge or belief of the fact;

4. A promise made without any intention of performing it; or,

5. Any other act fitted to deceive.

1573. Constructive fraud consists:

1. In any breach of duty which, without an actually fraudulent intent, gains an advantage to the person in fault, or any one claiming under him, by misleading another to his prejudice, or to the prejudice of any one claiming under him; or,

2. In any such act or omission as the law specially declares to be fraudulent, without respect to actual fraud.

1574. Actual fraud is always a question of fact.

1575. Undue influence consists:

1. In the use, by one in whom a confidence is reposed by another, or who holds a real or apparent authority over him, of such confidence or authority for the purpose of obtaining an unfair advantage over him;

2. In taking an unfair advantage of another's weakness of mind; or,

3. In taking a grossly oppressive and unfair advantage of another's necessities or distress.

1576. Mistake may be either of fact or law.

1577. Mistake of fact is a mistake, not caused by the neglect of a legal duty on the part of the person making the mistake, and consisting in:

1. An unconscious ignorance or forgetfulness of a fact past or present, material to the contract; or,

2. Belief in the present existence of a thing material to the contract, which does not exist, or in the past existence of such a thing, which has not existed.

1578. Mistake of law constitutes a mistake, within the meaning of this Article, only when it arises from:

1. A misapprehension of the law by all parties, all supposing that they knew and understood it, and all making substantially the same mistake as to the law; or,

2. A misapprehension of the law by one party, of which the others are aware at the time of contracting, but which they do not rectify.

1580. Consent is not mutual, unless the parties all agree upon the same thing in the same sense. But in certain cases defined by the Chapter on Interpretation, they are to be deemed so to agree without regard to the fact.

1581. Consent can be communicated with effect, only by some act or omission of the party contracting, by which he intends to communicate it, or which necessarily tends to such communication.

1667. That is not lawful which is:

1. Contrary to an express provision of law;

2. Contrary to the policy of express law, though not expressly prohibited; or,

3. Otherwise contrary to good morals.

1668. All contracts which have for their object, directly or indirectly, to exempt any one from responsibility for his own fraud, or willful injury to the person or property of another, or violation of law, whether willful or negligent, are against the policy of the law.

1670.5. (a) If the court as a matter of law finds the contract or any clause of the contract to have been unconscionable at the time it was made the court may refuse to enforce the contract, or it may enforce the remainder of the contract without the unconscionable clause, or it may so limit the application of any unconscionable clause as to avoid any unconscionable result.

(b) When it is claimed or appears to the court that the contract or any clause thereof may be unconscionable the parties shall be afforded a reasonable opportunity to present evidence as to its commercial setting, purpose, and effect to aid the court in making the determination.

1688. A contract is extinguished by its rescission.

1689. (a) A contract may be rescinded if all the parties thereto consent.

(b) A party to a contract may rescind the contract in the following cases:

(1) If the consent of the party rescinding, or of any party jointly contracting with him, was given by mistake, or obtained through duress, menace, fraud, or undue influence, exercised by or with the connivance of the party as to whom he rescinds, or of any other party to the contract jointly interested with such party.

(2) If the consideration for the obligation of the rescinding party fails, in whole or in part, through the fault of the party as to whom he rescinds.

(3) If the consideration for the obligation of the rescinding party becomes entirely void from any cause.

(4) If the consideration for the obligation of the rescinding party, before it is rendered to him, fails in a material respect from any cause.

(5) If the contract is unlawful for causes which do not appear in its terms or conditions, and the parties are not equally at fault.

(6) If the public interest will be prejudiced by permitting the contract to stand.

(7) Under the circumstances provided for in Sections 39, 1533, 1566, 1785, 1789, 1930 and 2314 of this code, Section 2470 of the Corporations Code, Sections 331, 338, 359, 447, 1904 and 2030 of the Insurance Code or any other statute providing for rescission.

3525. Between rights otherwise equal, the earliest is preferred.

L.R. 83-8 Vexatious Litigants

L.R. 83-8.1 Policy. It is the policy of the Court to discourage vexatious litigation and to provide persons who are subjected to vexatious litigation with security against the costs of defending against such litigation and appropriate orders to control such litigation. It is the intent of this rule to augment the inherent power of the Court to control vexatious litigation and nothing in this rule shall be construed to limit the Court's inherent power in that regard.

L.R. 83-8.2 Orders for Security and Control. On its own motion or on motion of a party, after opportunity to be heard, the Court may, at any time, order a party to give security in such amount as the Court determines to be appropriate to secure the payment of any costs, sanctions or other amounts which may

be awarded against a vexatious litigant, and may make such other orders as are appropriate to control the conduct of a vexatious litigant. Such orders may include, without limitation, a directive to the Clerk not to accept further filings from the litigant without payment of normal filing fees and/or without written authorization from a judge of the Court or a Magistrate Judge, issued upon such showing of the evidence supporting the claim as the judge may require.

L.R. 83-8.3 Findings. Any order issued under L.R. 83-8.2 shall be based on a finding that the litigant to whom the order is issued has abused the Court's process and is likely to continue such abuse, unless protective measures are taken.

L.R. 83-8.4 Reference to State Statute. Although nothing in this rule shall be construed to require that such a procedure be followed, the Court may, at its discretion, proceed by reference to the Vexatious Litigants statute of the State of California, Cal. Code Civ. Proc. §§ 391 - 391.7.

Constitutional Amendments

1st Amendment. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

5th Amendment. No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service in time of war or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or

limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.
14th Amendment Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

U.S.C. 42 Section 1983
Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

PETITION FOR RE-HEARING

Supreme Court, U.S.
FILED
JUL 22 2010
OFFICE OF THE CLERK

Docket No: 09-1318

United States Supreme Court

Glenn Henderson
Plaintiff

v.

Joe Hilberman, Sony Pictures, et al.
Defendants

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Ninth District

Petition for Rehearing

Glenn Henderson, Plaintiff pro se
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Fayetteville, NC 28314
910-867-4931

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Grounds for Rehearing

This case should be heard even though eight of the United States Supreme Court justices are defendants because there is nowhere else for me to be heard. This court should hear the part of the case that does not involve the defendant justices; their bias for themselves should not indirectly or directly affect or benefit others. The appeals panel did not make a judgment, so 28 USC Section 2109 does not apply. The panel claimed it appeared there were no substantial questions, which was an obvious lie. The corrupt panel denied me a chance at rehearing and rehearing en banc by treating my petitions as a motion. It would be more reasonable for this court to treat this case as a direct appeal from the district court. This court or the chief justice should send the case to the appeals court for en banc or other hearing as in paragraph one of Section 2109. In effect, I am appealing the district court's judgment since the appeals court made no judgment. I request to be able to withdraw the names of the eight justices, so the rest of the case can be heard.

Justice Sotomayor could recuse herself because she knows the defendant justices. Then, all justices would be recused, and there would be no one to hear my case, so they all should hear it. If there is no quorum, all justices should be required to hear the case, like in district court when all judges have an interest in the case and could recuse themselves, so any judge can hear it; there is a quorum of one in district court.

It looks more improper for justices to recuse themselves concerning a case that involves them and when an appeals panel refused to hear the case,

refused to allow an en banc hearing, let the justices' case be dismissed when my points were not addressed or refuted, let lawyers and courts wrongly state the facts and make false accusations about me, and when I did not get due process, than if there had been an appeals hearing and ruling either for or against the justices. It is absurd to say recusal is better in this case. This court is allowing due process to be violated for their own benefits. Recusal rules should not override a constitutional right, like due process. A law is not supposed to violate the Constitution. This court needs to do its administrative duty and require the appeals court to hear the case; that is not making a decision on the merits. In another similar case I took to this court, the case was about pro se's and lawyers being treated differently. No justice recused himself or herself, even though they could have looked biased because they were lawyers and not pro se's and the defendants were lawyers and in the legal profession and officers of the court, like the justices. I wonder if the appeals panel realized the defendant justices in this court would recuse themselves; that would have been corrupt of the panel. This court can show they are not biased by requiring procedures to be followed and the case to be heard in appeals court or by hearing the case themselves.

Recusal in this case would violate the intent of recusal laws. Recusal laws are to keep out bias or the appearance of bias. In this case, recusal is more likely to appear like bias or be bias because the appeals panel wrongly and wrongfully refused to hear my appeal and prevented an en banc hearing and because D.C. judge Wright lied, did not address my points, and did not give due process. Recusal

would give the defendant justices the benefits of not having the case heard properly in district court and not heard at all in appeals court and they would benefit by someone's constitutional rights, like due process, being deprived.

If the justices are recusing themselves because they have a financial interest, then they are saying they can be responsible for monetary compensation and not just declaratory and injunctive relief, like in section 1983. They would be saying they do not have judicial immunity.

I ask for a waiver of recusal as allowed in 28 USC section 455(e). If they are using 455(b)1, then they are admitting they have personal bias. That bias is made worse and not negated by recusal by not requiring an appeal and due process. Good justices should be able to say they would not allow personal bias and would be fair in any case, even one concerning themselves, so (b)1 should not apply. Section 455 talks about interest. I am not sure if it means financial interest or more. I guess it means more. Interest in justice should be more important to a judge than worry about declaratory or injunctive relief against them allowed by section 1983.

The recusal law is too broad, is unconstitutional, and does not take into account that recusal can show more bias than non-recusal. Dismissal by this court or this court's allowing the lower courts' dismissals to stand could and/or would show bias, but requiring an appeal in appeals court would not.

Recusal and not requiring a hearing in appeals court and not requiring due process in district court, appeals court, and this court is not in the interest of justice.

D.C. Judge Wright lied over and over. He is corrupt and needs to go to prison. The word limit keeps me from addressing his statements. There was obstruction of justice by all the defendants involved in the CA 391 issues, by the law enforcement defendants, and now by Wright and the appeals panel. RICO applies to them.

Judge Schiavelli discussed the points about the LAPD and CCPD and other issues. I do not have space to discuss them. He seemed to mostly make a good faith effort to give due process and address most of my points and explain his decisions. For equal protection, law enforcement can say they have more important, more serious offenses to investigate, and ask if we mind if they not investigate ours, but they should not just not respond. Maybe, they should show they do not have enough time. I read in the *LA Times* about an officer who took complaints. It sounded like everyone got listened to and could file a complaint. Police departments often abuse their discretion given by the courts. I do not hear that there is no right to protection by fire departments and paramedics or that they are too busy. The LAPD started their "broken window" policy of going after small crimes. It shows they were not too busy for it. Courts say there is no right to police protection, yet they can force a person to testify as a witness, even though supposedly the victim and the public have no right to protection. Laws, like one in CA, that say police or other law enforcement cannot be sued for inadequate police protection are unconstitutional because they can violate the constitutional rights of equal protection and due process.

I was harassed and stalked for 1 year and 8 months by my supervisor at Sony. Sony knew it and

allowed it and encouraged it. If anyone was harassed and stalked like that and got their complaint filed, investigated, and/or prosecuted, then I did not get equal protection. I allege and have seen that others have gotten that. If anyone lost as much as I did in theft or any wrongdoing and got their complaints filed, investigated, and/or prosecuted, then I did not get equal protection. I claim equal protection means everyone gets protection of every law. It at least means everyone gets protection by every law someone else has gotten protection by. There is inherent discretion in what police do, but it is only if they are busy with another call or complaint at the exact time another complaint or crime is reported.

I read a guy was prosecuted for stealing a $1 and something container of ketchup. I read about a woman who threw papers at another woman and was arrested; that one was about human rights, the right to be left alone, and about dignity, which is what I am trying get help for from law enforcement. These two examples do not seem worse than being pushed, threatened, harassed and worried like I complained to the LAPD about. I did not get equal protection. The examples show those law enforcement people and prosecutors were not too busy for small crimes. The examples are not worse than what has happened to me in the courts and at Sony.

There is a relationship between me and the government. The courts have caused me psychological damage and other problems. Sony and others have, too. Incorrect rulings have been made, some intentionally. There has not been due process or equal protection. A county hospital helped cause my PTSD, anxiety disorder, and depression. Also, law enforcement has helped cause my problems.

Lawyers are officers of the court and part of government.

Supposedly, all have the right to feel reasonably safe and secure. I am being told anyone can do anything they want to me, and I cannot get justice or even due process. I have the right to argue for repeal of an old law, for a new law, or for change in a law. I am doing that, but the law already supports me, except for doctors' reports' having immunity. Stopping reasonable arguments is stopping new ideas; new ideas are a main reason for free speech. Conflict of interest exists for judges, who are lawyers, to rule against judges or lawyers. All are officers of the court. Not taking my complaints of discrimination and retaliation seriously was discrimination and retaliation. CA law prohibits retaliation against a victim or punishing anyone because of being a victim. Congress and states keep adding laws, and that shows there are a lot of new ideas for Congress, states, and courts to consider. I cannot protect myself. I could not protect myself from Sony, Russo, the union rep, courts, judges, justices, lawyers, and others. That is a disability because I could not do a basic life function.

In my case about childhood harm that I appealed to this court, I did not get equal protection because the statute of limitations was lifted for many similar cases but not for mine. In another case, the courts implied that I was too stupid for believing my union rep when she told me the union did not have to help me with arbitration, something both sides agreed the rep said. I see lots of scams that people fall for because they trusted someone in a similar way. I am glad they get help. I did not get equal protection. Suspiciously, my union got jury duty benefits from

Sony after talking with Sony about my situation. The last issue and the issue I was actually fired for was that Sony claimed I took too long for jury duty.

On PBS, I heard Stephen Breyer say due process was what should be done. The law and procedures should be followed; that is what should be done. The courts have done the opposite. I have to depend on the courts; I have nowhere else to go. I cannot get the due process of getting my points addressed and the law followed. A Florida judge on that show said law enforcement are there to "uphold the law."

With the corrupt actions and wrong rulings by the courts, I am afraid I cannot get a fair trial if I am ever a defendant in criminal or civil court. I have not gotten a fair trial or fair attempt at litigation from the courts, except for the first two cases with Sony. I am afraid law enforcement will never help me. Courts and law enforcement have mostly ignored me or my points, except some courts have even wrongfully attacked me with unconstitutional laws I had not violated. I am worried that Mr. Lester, the U.S. Assistant Attorney responding in this case, and CA Attorney General Brown are not arresting the corrupt defendants (not all defendants are corrupt) and prosecuting them.

Being put on the CA 391 list or receiving an 83-8 order should not happen without a jury trial. That is about facts. Both rules are unconstitutional. All of 391 and the part of 83-8 that refers to 391 are unconstitutional and illegal. A jury should rule on the constitutionality of the rules. Like in this case, some judges and justices are finding others to blame for their mistakes and corruption. They are too lazy or corrupt to research the law and cases to give due process. Like in this case, lawyers corruptly use the

rules to blame others because they have no defense.

There was obstruction of justice by all the listed defendants involved in the CA 391 issues, by the law enforcement defendants, and now by Wright and the appeals panel. RICO applies to them. It is state and federal interest to get one justice and due process and help with psychological harm so the person can be more productive. I have physical as well as psychological damage from the stress of all this.

Courts are wrongfully legislating. They have applied laws wrongly, and they have made a mockery of equal protection and have developed schemes to disregard it. The appeals panel, Wright, and defendant judges are not following the law, so they are legislating from the bench. There should be declaratory relief even if there is immunity from monetary damages, so that one can clear one's name. There were 21 cases because lots of wrong things were done to me.

Pro se's mean so little to courts that the U.S. and CA Supreme Courts will not even hear cases challenging 391 and that it is used not as written. The courts in my case have not ruled on my claim that 83-8 is partly unconstitutional and is not being used as written. Judge Stern said I did not show I had not violated 391. He and the defense are supposed to show I did, but neither did.

The word vexatious is harassing, name-calling, and a fighting word that is not free speech. Some people want a public record of their complaint. I have heard courts encourage people to bring their problems to court.

At Sony, Michele Stein, in Human Resources, stopped sending my resume and applications to managers for jobs at Sony that I had applied for

because no one was responding. My supervisor required that I tell her about anything negative or anything I did not like that someone did or I could be fired. That violated my constitutional right to be free from compelled speech and my right to privacy. Sony stated it was their policy to give employees a chance to develop and advance. I did not get that. The settlement with Sony was unconscionable. They tried to get away with violating laws like the Civil Rights Act of 1964 and related statutes, such as ADA and ADEA. Sony also had a superior bargaining position.

In *Wilson V. Pier*, Wilson filed 43 disability access cases. The defense tried to have him declared a vexatious litigant. The judge denied the request because the plaintiff showed laws were violated. In all my cases, I have shown they had merit and that laws were violated.

All of this is intentional and negligent infliction of emotional distress. America should not allow corrupt judges on the bench or incompetent ones or both.

I never even wanted monetary compensation from the LAPD, CCPD, LADA's office, USDOJ, CADOJ and other law enforcement when I started fighting them. I just wanted them to do their jobs and help me and stop crimes. I now want monetary compensation from and criminal prosecution for Glick and anyone else from the LADA's office involved in their illegal use of illegal 391 and illegal 83-8.

A saw the movie "Philadelphia," and it referred to a U.S. Supreme Court about AIDS. The main character said, "Subsequent decisions have held that AIDS is protected as a handicap under law, not only because of the physical limitations it imposes, but because the prejudice surrounding AIDS exacts a

social death which precede... which precedes the physical one."

I cannot find a job or a good job relevant to my education. I had a chance for advancement at Sony but was defamed, harassed, and discriminated against and could not get a promotion and got fired. I had to quit or felt I needed to quit my last job because of all the stress of the wrongs done in litigation. I did not want to embarrass the company about my litigation. I got to the point I could not function normally and did not want to go out in public. I thought anyone might want to hurt me physically or verbally. I went to my hometown to try to recover and hopefully get some therapy. I have tried, but it has not worked. I feel blacklisted in seeking employment.

Only a court's going through all of my cases and all of my claims and showing laws that say my claims are not actionable would give due process. A court cannot show such laws because such laws do not exist. The only law a judge mentioned that could legally dismiss a claim was the immunity law for doctors' reports.

The corrupt panel members and the corrupt defendants in this case (not all defendants are corrupt) need to go to prison. I will fight them until there is justice or until the day I die.

I did not get a full and fair opportunity to litigate this or any case.

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Certification

I certify that the petition is presented in good faith and not for delay. The grounds are limited to intervening circumstances of a substantial or controlling effect or to other substantial grounds not previously presented.